House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON THE

CRIMINAL LAW AMENDMENT BILL.

TUESDAY, 15TH APRIL, 1890.

INCEST CLAUSE.

On section 6,

Mr. BLAKE. I must confess I have some apprehension that this is hardly likely to efficiently serve the purpose which I suggested for the consideration of the hon. Minister. I suggested the case in which a female of tender years—and it is upon such that this offence is committed—who had succumbed under the influence of fear, would be exposed to the penalties of the criminal law. I am not, however, at the moment, prepared to propose any more adequate remedy than the one proposed by the hon. gentleman, but I confess my objections are not completely removed.

Mr. BLAKE. I would submit for the consideration of the Committee, and especially of the Minister, that we have to deal with the balance of conveniences and inconveniences, and with the balance of difficulties on one side or the other. In the great bulk of cases, I think it will be admitted, that you have but one criminal, and, if the chance of bringing that criminal to justice in the great bulk of the cases is going to be diminished by a law which makes the other party, who is not substantially criminal, liable to fourteen years' imprisonment, are we not, for the sake of the exceptional case to which the hon. gentleman has alluded, and in regard to which the observation of my hon. friend (Mr. Laurier) is of cogency, that this must have commenced by the criminality of the male, taking away our chances of punishing the criminals in the vast majority of cases ?

Mr. BLAKE. It is possible that we may be drawing an Act here which will defeat itself in the great bulk of cases. What is going to be done when you are indicting one or other of these two persons ? First, you indict the man, who is generally the principal offender. The woman will not be bound to criminate herself; it would be extremely unlikely that she would run the risk of doing so. My hon. friend says she would be held not guilty.

Mr. BLAKE. But we are dealing with the probability of advancing justice, of securing the condemnation of the really guilty party, and when the woman is liable to be placed in the dock on account of the commission of this outrage on herself, by her own relative, it may be, you cannot impress upon her a calculation of chances that by giving her evidence, though proving herself guilty, she may yet be making a door of escape.

Mr. BLAKE. I suggest to the hon. member for Northumberland (Mr. Mitchell), that his motion would be inconclusive ; but he should wait until the Committee report, and move his motion with the Speaker in the Chair. We have already divided once on this provision in the Committee.

TRADE COMBINATIONS CONSPIRACY.

On section 18,

Mr. BLAKE. My opinion is, that the revision of the statutes has effected a very serious and prejudicial alteration of the law, in respect to the particular class of transactions to which this law was devoted. For my part, I was apprehensive, when I saw the clause in the shape in which the hon. gentleman proposed it, and heard the reasons which he gave, that the diminished efficiency which the law has, under the Revised Statutes, would be altogether removed. I am, therefore, very glad to see that, whatever be the prefatory changes, the hon. gentleman has, at any rate, resolved to leave that diminished efficiency intact. My own impression is that the original efficiency ought not to have been impaired ; that the reference to that particular class of offences with which the Revised Statutes deal, and which was originally dealt with by prior legislation, to which I shall refer, should remain, and that the whole and entire vigor of the exception which was made as to statutable crimes should be preserved. In order that the position which I take on this subject may be apprehended, I will have to trouble the House with a brief reference to the statutes as they stood. The earliest statute which we have on this subject is 35 Victoria,

chapter 31, passed in 1872, which was a law with reference to threats, violence and molestations. It provided as to certain defined acts, which were the acts it was thought expedient to make punishable specifically—certain defined acts arising in the connection of workingmen with one another, and maybe, of employers with one another—and it made these acts punishable by imprisonment, with or without hard labor, for not more than three months. There were provisions in that statute for the prosecution, under the procedure for summary prosecutions, by justices of the peace out of sessions; and a power to appeal was given. There was, also, a very proper provision that the master, or the relative, or connection of the master, should not sit as a justice of the peace in such prosecutions. That Act was not found satisfactory, and in 1875, by 38 Victoria, chapter 39, that law was repealed and other specific provision was made, which, however, in itself was unsatisfactory. In the following year, 39 Victoria, chapter 37 (1876) was passed, for which, being at that time Minister of Justice, I happen to be responsible. Now, by the first section of that Act, the Act of the previous year was repealed, and by its second section the repeal of the first section of the original Act, 35 Victoria, was continued, and for it was substituted a more satisfactory section, as I conceived, and as Parliament approved. That new section dealt with the matter as affecting the relations of men generally, and not of particular classes of men, and it applied to these relations certain conditions which were constituted into crimes. Certain particular kinds of offences, now often called boycotting, and particular cases of a marked and defined offensive character, relating to intimidation by threat or otherwise, were specified. They were made offences, and it was provided that they should be punishable by the alternative of fine or imprisonment, summarily; but that, instead of there being an appeal, if the accused party objected to being tried before the summary tribunal, the case should forthwith be treated as an indictable offence and prosecuted as such accordingly. Then the fourth section established for the first time the law as it stood until the Revised Statutes, with reference to this particular subject of conspiracy, and its provision is that to which I particularly wish to draw the attention of the Committee and the Minister of Justice. The fourth section provided:

"That no prosecution shall be maintainable against a person for conspiracy to do any act, or to cause any act to be done, for the purpose of a trade combination, unless such act is an offence indictable by statute, or is punishable under the provisions of the Act hereby amended; nor shall any person who is convicted under any such prosecution, be liable to any greater punishment than is provided by such statute, or by the said Act as hereby amended, for the act of which he may have been convicted as aforesaid."

The statute then defines what a trade combination is. Now mark that the law of conspiracy was thus swept out of all operation in connection with acts done for the purpose of a trade combination, except in two classes of cases; unless the act done was an offence indictable by statute, or unless it was an offence punishable under this particular Act, in which case, though not necessarily, an indictable offence, it was an offence of that particular character and defined in that particular way by the very Act itself, as I have described a moment ago. Therefore, the law of conspiracy was abrogated, as to trade combinations, except in this particular class of offences defined, and in all cases of such graver offences, as are offences indictable by statute. Any conspiracy, then, for purposes of a trade combination, to do an act punishable only at common law, or punishable by statute under summary procedure, was no longer criminal and remained no longer capable of being prosecuted under the law of conspiracy. If it were one of these minor offences, not raised to the gravity of an offence indictable by statute, if it were a minor offence punishable summarily, it was swept out of the law of conspiracy altogether, if done in concert for the purpose of a trade combination. Such was the law, and so it stood and gave satisfaction until the Revised Statute passed; but in the Revised Statute, I find, an alteration was made, and it reads thus:

"No prosecution shall be maintainable against any person for conspiracy to do any act, or to cause any act to be done, for the purposes of a trade combination, unless such act is an offence punishable by statute."

So that you no longer have the protection, as to the gravity of the excepted offence, which existed up to that moment. All offences which are punishable by statute, even though of the most trivial character, and punishable in the lightest way and by the most summary procedure, are once more, by the Revised Statute, drawn within the wide net of conspiracy, even though they are things done for the purposes of a trade combination. This is a distinct enlargement of the exception, certainly not contemplated by me when I proposed the legislation, or by the Houses of Parliament which passed it at that day; and you will readily perceive that, having had a special interest in this legislation, I was surprised when I found that that diminished protection which was still awarded by the Revised Statute it was proposed further to impair by substituting offences punishable by law "for offences punishable by statute." I am glad we are going back thus far, but I hope we shall go back still further; I hope that all the protection which was given, and advisedly given, against the effects of this obnoxious law of conspiracy by the Act of 1876, will be restored by Parliament, and that the attempt—I do not know with what design—for all I know, it may not be a designed attempt—to diminish that protection and to enlarge the exception, will not, now that the attention of Parliament is called to it, be persisted in, but that we shall find Parliament disposed to restore in its full vigor and efficiency the Act of 1876. Now, Sir, this law of conspiracy is a very wide law. I declare that the alteration which has taken place renders it impossible to say how small a matter may not now be punishable as a criminal conspiracy, and introduces lamentable uncertainty into the operations of trade combinations. I have extracted a statement made by a very eminent legal authority, an ex-Lord Chancellor of England, in one of the very latest debates in the House of Lords, upon the subject of the law of conspiracy, and I will trouble the House by a perusal of it, inasmuch as it shows how wide is that net which the law of conspiracy spreads in order to catch the subject. Lord Herschell said this:

"I think exaggerated importance has been attached to the expression 'criminal conspiracy.' Many most excellent people have been guilty of criminal conspiracy without being deserving censure. The law of conspiracy is a

wide net spread by the law of our country. An agreement between two people to commit a trespass is a criminal conspiracy, for it is to do an unlawful act. An agreement between husband and wife to smuggle goods into this country would make them guilty of criminal conspiracy, for it would be an agreement to do an illegal act. When I come to this subject, I get a little uncomfortable, for I am not sure that when I visited the United States I was not guilty of criminal conspiracy myself. It has been held that any combination to avoid the Maine Prohibitory Liquor Law is criminal conspiracy. I have a recollection of going to a watering place where the prohibitory law was enforced. The landlord of the hotel was not allowed to supply spirits for payment, but promised to obtain them for his customers. There was an item in my bill under the head of 'sundries' which covered the cost of the spirits, and I am afraid the innkeeper and I were guilty of criminal conspiracy. Any noble lord who has had experience of the criminal courts will know the length to which the law of criminal conspiracy has been carried. I am not prepared to say that any agreement to do an illegal act, or to do a legal act by illegal means, is not a criminal conspiracy. There is a case which is an apt illustration of my contention that there may be criminal conspiracy, even to boycotting, without much moral blame. There is a case now pending * * * in which it has been held that an agreement to boycott was an illegal conspiracy; and I apprehend that every illegal conspiracy is a criminal conspiracy, because it comes clearly within the definition. That is the case of a conspiracy by highly respectable steamship companies to treat people in a certain manner and so effect their trade. Although these companies may be guilty of criminal conspiracy, I am sure they will not feel themselves morally to blame."

Now, Sir, what I want to press is this: that, as the law stood as the Parliament of 1876 passed it, we abstracted altogether from the operation of the law of conspiracy, all acts done in pursuance of trade combinations, which did not fall within one of these two categories: first, that the act was indictable by statute, and so in its nature a grave offence, and, second, that the act was one of the offences specified in the statute itself, and which were particularly germane to the question of trade combinations. For anything outside of these, that the parties combined to do, they were free from being prosecuted for conspiracy. The revision of the law has changed that, to the detriment of the efficiency of that protection, by substituting the phrase "punishable by statute" for the phrase "indictable by statute," and has, therefore, permitted the application of the law of criminal conspiracy to acts, trivial and minor acts, done in pursuance of a trade combination, though those acts be not either indictable by statute or within the range of the specified crimes enumerated in the Act itself. What I ask the Committee and the Minister is that the efficiency of the protection which was given in 1876 shall be restored, and that a form of words shall be adopted which will accomplish that result.

Sir JOHN THOMPSON. We are dealing with a class of offences in respect of which labor organisations, or, as they are known by statute, trade combinations, feel apprehensive of inefficient protection under the laws which allow them to be formed. The legislation is restricted entirely to such trade combinations. The particular case in respect of which the apprehensions of these trade combinations exist, as I stated to the Committee a few moments ago, is the indictment for refusing to work with or for any employer or workman. In respect of that, the amendment which I propose completely covers the case. It declares that they shall not be liable for refusing to work with or for any employer or workman. On reviewing the clause which I had drafted for that purpose, but which was not as wide as the one I propose, the labor organisations passed resolutions and memorialised privately, by circular, members of the House, asking that the Bill should be amended in the direction in which I have framed this amendment. They were willing to accept the provision in the Bill, provided I substituted the word "statute" for the word "law" in the last line of section 18. But I have gone a step further, and, in order that their request be satisfied, I propose to declare that in no case shall they be prosecuted for refusing to work with or for any employer or workman. It seems to me that in doing that I meet the practical difficulty which has arisen, and I comply with the request of those who have considered this question fully for the last few years, and who are most concerned in it, the trade organisations themselves; and I may say to the House that they have not merely considered it from their own point of view and their own knowledge of the law, but they have been carefully advised as to every question which might arise out of it. Under these circumstances, I hope the hon. member for West Durham, after having stated the views he has expressed, and having explained what his view is as to the distinction in the law prior to the revision of the statutes and now, will not press the Committee to widen the provision which I state to the House; and the House will be already aware, from the requests they have had from the labor organisations, meets every practical emergency which has been suggested, and meets to the fullest extent the requests made.

Mr. BLAKE. Well, I retain my very strong opinion that a very important protection to the labor organisations in the exercise of their power of combination has been removed, and that their position is extremely impaired; but after the hon. gentleman's statement that he has had communications from the labor organisations, and that they have informed him that they are perfectly satisfied with this legislation, I shall not now be wiser for them than they are for themselves.

Mr. LAURIER. It seems to me that the labor organisations scarcely apprehend the distinction which has just been proposed by my hon. friend from West Durham. It is certainly a very important difference, though technical, and probably on that account overlooked by the organisation; and if the attention of the organisation had been called to it, they would have only been too glad to avail themselves of the more striagent protection suggested by my hon. friend.

Sir JOHN THOMPSON. The very section which is now proposed—and I ought to have mentioned it sooner, out of deference to the hon. member for West Elgin—is the proposition he submitted to the House last year. I think he did so at the request of the labor organisation. I know, that after the Bill was introduced by him, delegates from the labor organisation waited upon almost every member of the House and requested their support for the Bill. But the Bill was not introduced early enough to reach all its stages. Delegaces from a number of these labor organisations met members at the beginning of this Session, and requested that some such clause should be adopted. I proposed the clause which is in the Bill, and they distinctly agreed to that as sufficient for all their purposes. Since the Bill was intro-

duced, they have issued a circular, to which the hon. member for Montreal (Mr. Curran) drew my attention yesterday, and a copy of which I received this morning. That circular contains the following resolution :

"Be it resolved, that we ask that Sir John Thompson's Bill to further amend the criminal law be amended by inserting the word 'statute' in place of 'law.'"

In addition to that, some eight or ten delegates, representing all the trade and labor organisations, waited upon the First Minister, the Minister of Agriculture, the Minister of Marine and myself, the other day, and made the request that the simple change should be made in my Bill of inserting the word "statute" for "law." I think the section I have proposed will be an improvement, and gives them further protection even than that; but considering, as the hon. member for West Durham has said, that it meets the request put forward by these organisations, and, as far as I can see, meets all the practical difficulties, it would be well to rest content with that much for the present, at any rate, unless a practical case is put forward calling for a change.

Mr. CURRAN. Judging by the observations of the hon. member for West Durham (Mr. Blake), it would appear as if there will not be as much protection as formerly. What we must also take into consideration is the fact that these organisations are advised by legal gentlemen outside, whose views are very different to those expressed by hon. gentlemen here. I have often myself, when conversing with these people, found that points which appeared very clear to me, were taken exception to by them, under advice given them elsewhere. The hon. the Minister of Justice has met the request of these people on their own ground, and, perhaps, to some extent improved upon it. It is probably well to give them what they ask.

Mr. BLAKE. When I was called upon to legislate on this subject, I gave what I thought was right.

Sir JOHN THOMPSON. I have given, not only what I thought was right, but more than they asked, and do not propose to give any more.

Mr. WILSON (Elgin). I am to a certain extent satisfied with the clause introduced by the Minister of Justice, for I feel it is going in the direction of granting the relief which the labor organisations require; but I would call the attention of the Minister of Justice to the fact that in the report, Mr. Elliott, the president of that organisation, in referring to the clause introduced by me last Session, stated that clause was introduced so late and the clause was so crudely drawn that it would not meet the acceptance of the labor organisations. The Minister of Justice, however, has accepted the clause, as I introduced it last Session, which the president of the organisation said would not suit their purpose, and he ought to remove the crudity with which it is encumbered. I would further recommend him to have communication with Mr. Elliott, so that he may get the approval and endorsation of Mr. Elliott. If the clause was so crude and unsatisfactory when it emanated from my hands and appeared upon the Order paper in my name, I cannot understand how it could have improved so very much by emanating from the hands of the Minister of Justice. I suppose the organisations of trade and labor are very honest and sincere and candid, and I should judge the Minister would do well to reconsider the matter, and see whether the clause merits the approval of Mr. Elliott.

Mr. BLAKE. I read that correspondence, and I must say I formed the conclusion that the real opinion of Mr. Elliott was that it was not the clause that was crude, but the hon. member for Elgin.

Ottawa:—Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

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FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON THE

ELECTORAL FRANCHISE.

FRIDAY, MAY 9TH, 1890.

Mr. BLAKE. It may be desirable to have a special provision for a particular case, although it is obvious that there would be danger in adopting the suggestion of the hon. member for Algoma (Mr. Dawson), because it would give the hon. gentleman's voters the opportunity of voting "early and often" with greater facility. But it is very dangerous to apply the argument that because a special district requires special legislation, that legislation should be made generally applicable. Let me make this suggestion to the hon. Secretary of State: The hon. gentleman says the reason for his change is because a particular revising officer has been under the impression that the law permitted him to make polling districts of any size he pleased. I think, Sir, that while it might be expedient to provide against injustice arising from some error of a revising officer, so as to avoid the disfranchisement of voters; it is very inexpedient that we should open any wider door for the revising officer to decline doing his full duty. I would suggest to the Secretary of State the advisability at the same time at which he makes provision for a possible neglect or error of duty, of making it still clearer what that duty is. He tells us that a revising officer, who is also a judge of the Superior Court, has construed it to be within his duty, deliberately to make a polling division comprising some 1,100 voters. I do not understand that to be the intention of the law. I understand it to be the duty of the revising officer to restrict the number to 250 voters. If we alter the law as it stood, and add this provision, we will be rendering it more likely that similar results will happen in the future. There are two several classes of cases which occur to me. I think it may very often happen that a revising officer, through error, or perhaps thinking it reasonable, may allow a small number of fifteen or twenty votes in a polling division, more than the maximum. That would be amply satisfied, I think, by just leaving things as they are. I believe there is no difficulty in polling at the one place a larger number than our maximum, and I believe it would be less evil to permit, within a moderate limitation of that kind, the division to remain undisturbed, than to allow the returning officer, a week before the election, in the case of an error of that kind, to dislocate the appointed divisions. There is really no necessity for it in the great number of cases for which we may be expected to provide. Such an exceptional case as the hon. the Secretary of State cites to us as one to be provided against, would be provided against chiefly by making the law very plain, so that he who runs may read, and by stating that it is the duty of the revising officer to divide the polling sub-divisions for each 200 or 250 voters. As my hon. friend has said, we have known in days that are past, very great improprieties committed by returning officers in reference to the discharge of discretionary duties. I have had before me an authenticated instance wherein, at the last general election, a polling station was established, not in the most convenient or central place, but in a place extremely inconvenient to the greater number of the voters who happened to be of one party, and thus creating an absolute injustice. I am not disposed to give to the returning officer, who is appointed shortly before an election, who is appointed at the will of the Government, frequently upon the nomination of the candidate, and who is acting in the heat of a contest, and largely at the suggestion of a candidate—any more discretionary powers than we can avoid. Some such powers he must have, but I think we should limit them to the utmost.

Mr. BLAKE. I do not understand that it is limited in point of time, but that it will be perpetually engrafted on the law, so that after the next revision, if you should find that a dozen revising officers had made the same default of duty, you would find a dozen returning officers performing the same duty.

PATENT BALLOT BOXES.

Mr. BLAKE. I thought this must be an *ex post facto* arrangement, and that it was not really designed that the Committee should send for persons at this late stage of the Session. I do not think that these persons should be paid their expenses for coming here in pursuit of their own business, and, for my part, I shall object to it.

Mr. BLAKE. I do not think the case is at all parallel to any case we have had before. It was purely in their own interest that these people came here. They came in the hope that their inventions would be adopted, and that they would make money out of them. It seems to be out of the question that we should pay them for three attendances here, and their travelling expenses besides. If we sanction this now, where are we going to draw the line? There is a trial recommended of three of these ballot boxes, and are we going to pay these men for the preliminary use of their invention?

Mr. CHAPLEAU. The hon. gentleman evidently thinks that anything but his own advice or conclusions are absolutely to be disregarded.

Mr. BLAKE. No.

Mr. CHAPLEAU. Instead of making the remarks that the hon. gentleman has just favored the House with, he should have appeared before the Committee and witnessed what was done. He sent, it is true, a suggestion from one of the returning officers; one of his own friends, I presume.

Mr. BLAKE. No, it was for Mr. Blackburn, the former editor of the London *Free Press*, and now registrar of Middlesex.

PRINTING OF PARLIAMENT.

Mr. BLAKE. That clause is expunged. I quite agree in the view that it ought to be expunged, because it would be contrary to the statute which provides for the payment of the indemnity. At the same time, we have been made acquainted with this regrettable fact—I think by the Auditor General's Report—that a very considerable sum is owing in the way of arrears on this account. That ought not to happen, and, if hon. members take advantage of the provision, by which they can obtain public documents at cost price, and do not pay for them, I think the circumstances should be made known. I propose, on the first day of the next Session of Parliament, to move for the names of the members who remain in arrears. We have talked a good deal about clubs here to-day, and we know there is a very good system in clubs of posting the members who are in arrears. I shall propose to post those members of this House who are in arrears in this way.

LAND GRANTS TO RAILWAYS.

(In the Committee.)

On resolution 1,

That it is expedient to authorise the Governor in Council to grant to the Canadian Pacific Railway Company, Dominion lands to an extent not exceeding six thousand four hundred acres per mile for a branch line to be constructed from Glenboro' westerly, a distance of about sixty miles, to a point on the proposed branch railway of the said company running from Brandon south-westerly.

Mr. BLAKE. I recollect very well that, during the discussion on the charter which was proposed to be granted to the Canadian Pacific Railway Company, with all its aids in land and money, one of the reasons given for the large subsidies granted at that time was that they were necessary for, and in the interest of the country because the company were expecting themselves to construct and were to count on their constructing branch lines through the North-West by means of these grants. I find now that it is proposed to give large subsidies to the Canadian Pacific Railway Company for the construction of those branch lines which we were told they would build in consequence of receiving those large grants of money and land. I would ask the Government to say why this departure is made from the policy enunciated in 1880-81?

Mr. DEWDNEY. The line from Glenboro' westward constitutes a portion of a line which, I think, was originally called the Winnipeg South-Western. There were two South-Western Railways, and the charters were purchased from the parties who held them by the Canadian Pacific Railway, so that the first resolution would not come under the objection of the hon. gentleman.

Mr. BLAKE. I am quite aware, from the lie of the ground and from seeing the map, that this piece does not run from the main line of the Canadian Pacific Railway, but is connected with a branch line which the company has acquired. But it was a part of the understanding with the Canadian Pacific Railway Company that the branches were to be constructed at their expense. The Canadian Pacific Railway Company took over a branch which had been subsidised by the country, and now it is proposed that an additional piece shall be added to that by the company at our expense in part.

Mr. BLAKE. When first the policy of aiding railways in the North-West by land grants was brought before the House, independently of the great grant to the Canadian Pacific Railway, in regard to which grant somewhat special reasons were adduced, I advanced this view: that although it was eminently advantageous, and it was absolutely necessary, that railways should be built through the North-West; although it was extremely reasonable that that country should bear, by the means we were proposing, a considerable portion of the burdens involved in the construction of those enterprises; yet, still, it was of the greatest possible consequence that we should devise some means to avoid the locking up of large quantities of land, and particularly the locking up of those areas of land alongside the lines of railway, which would be the first desired for settlement, and more especially when these were alternating with free grant sections, which would be sought for before the sections which were to be obtainable only by payment. We know that, during the period in which there was a considerable immigration and an excitement with respect to the values of land in the North-West, the suggestion that advantage would be taken by the railway corporations of their power as land holders, was realised. We know that their behavior was such as indeed we could not complain of; that it had respect to what they thought their interest under the circumstances; and that they raised the prices of their lands, as they had a legal right to do, as we who granted them without condition had no right to condemn, to the highest point that the then inflated condition of the market would, it was thought, allow. Lands, which had been saleable at $1, $1.50 or $2 per acre were raised to $5, $6 and even $8 per acre, and sale and settlement were checked, and the country was in-

jured. The settlement of the country is effected very satisfactorily indeed under those conditions which allow two or three members of a family or two or three close and intimate friends to go together. One of the great difficulties in a new country like the North-West is the separation of the settlers, at the best, from the aggregates of population. That difficulty they must encounter until towns grow; that difficulty is made greater in the North-West by reason of the large areas which we allow for the individual settler, and which make him in a sense remote even from his immediate neighbor. But that difficulty is intensified when under our principles of settlement there is going to be settlement in the first instance only in alternate sections; when you have a set of sections for sale along the railway, and a free grant set of sections, alternating with each other. It is obvious, except in the case of an immigrant who has considerable capital, that a settler will be almost driven to say "the capital I have must be put into fencing and buildings and into implements and breaking the land, and I cannot afford to pay a price for the land;" and, therefore, you have these inevitable difficulties to some extent intensified, even by any system under which there will be a check on free settlement. We cannot avoid that, we cannot eat our cake and have our cake. If it is necessary to make these railway grants to secure the construction of roads, we must do so on the least disadvantageous terms to the public consistent with reasonable advantage to the railways. When these grants were proposed and submitted to the House, I submitted a motion, which will be found recorded in the Journals of the House, for a vote was taken upon it, that the grants should be made only on condition that the areas granted of agricultural lands (I did not speak of land with mill privileges or station grounds or town sites, or other special values, but only of ordinary agricultural lands) should be open for sale on reasonable conditions for actual settlement and in reasonable areas, at a price not exceeding a maximum to be fixed. My object was to ensure that a man who goes out to that country to hunt for land, and takes a map on which he finds the alternate sections indicated, would know that if he has found a choice section on railway lands, he would be as certain to get that section if it had not been entered before, on coming back to the railway office and paying the stipulated price, as he would be certain on coming back to the Government office of getting the free grant which is adjoining it. He could thus choose his free grant, and for his neighbor or friend with whom he wished to live in proximity he could choose the railway land. By this means you would provide against the lock up of land which the hon. member for Muskoka (Mr. O'Brien) has referred to, and which may be a very serious evil. You would make this land as freely open for settlement as the Government lands, except on the addition of having to pay a certain sum. In the old times when I had an opportunity of taking an interest in these matters—an interest which the hon. member for Assiniboia (Mr. Davin) doubts a little sometimes, but which I can assure him, however misdirected was, at any rate, very sincere—I received complaints from persons who had been in that country and who said: "We went here and there and everywhere, and on coming back, having made one or more selections, we found either that the land was a railway grant and we could not get it, or it was held by the Canadian Pacific Railway under that blanket grant of theirs, or it was in the hands of speculators, and we came back disheartened." Your system ought to be one which would leave open on plain terms to actual settlement, irrespective of the will of the railway company, the agricultural lands, out of which, notwithstanding your arrangement, the railway company shall derive a reasonable price. Name a maximum price, and let the lands, subject to the payment of that maximum by reasonable instalments, be open to settlement in reasonable areas. If you do that you diminish the difficulties inseparable from this question, to the greatest possible extent, and, if so minimised, the advantages of securing the construction of a railway are greater than the disadvantages of causing the partial lock up of lands necessary for its construction. I do fear, that if there comes again a time of considerable immigration to the North-West, and of considerable hunting for land, the reckless manner in which we have given, and are giving, these grants will prove in the future, as it has proved in the past, to be a greater obstacle to the settlement of that country than might exist if a different system were adopted. It is all very well to repeat the arguments with which I was met in former years, namely, that it is in the interest of the railway company to sell, and that we may be quite sure they will be glad to set a low price on the land. We have heard that before, and we have had an example of the short-sighted policy in the period of inflation to which I have referred, which prevented settlement just because it was thought a little more money might be obtained later on. I do not want these lands to be used for speculation, either by the individual buyers or by the railway company itself. I want them to be charged, in favor of the railway company, with a reasonably fair price for the settlers to pay; and while subject to that charge, that they shall be as free and open to the settlers as if they were Government free grants of lands.

On resolution 1,

Mr. BLAKE. To the difficulties that beset the consideration of this question, the hon. member for Lisgar (Mr. Ross) has added other alleged difficulties which do not in fact exist. He has spoken about coal lands, timber lands, and lands in the immediate vicinity of stations and town sites being included. What is the suggestion I made to the House? I excluded lands of this character; I limited my suggestion to ordinary agricultural lands. Lands which the company might have a right to hold as having special values, which did not come within this denomination—lands having a special value, such as coal lands, timber lands, town sites or expected town sites, could, by a very easy arrangement, be withdrawn from the operation of the regulation which would apply, by arrangements to be prescribed by the Government, under the general direction of Parliament, a maximum to ordinary agricultural lands alone. I admit that there are some real difficulties to which the hon. gentleman has alluded, but which also he has exaggerated. He has supposed that my suggestion necessarily applied one maximum to all rail-

way grants. Not at all. It is not necessary, when you are dealing with the lands of one railway company, to apply the same maximum which you would apply with reference to the lands of another. For instance, there is a railway enterprise in which I understand the hon. member for Lisgar (Mr. Ross) takes a great deal of patriotic interest—the Hudson Bay Railway Company. No one can suppose it would be reasonable to apply the same minimum or maximum to that, which would apply to some of the others. But why complicate unfairly and unreasonably a practical suggestion, whatever its difficulties, by adding these absurd notions of difficulty which the hon. gentleman entertains? We are now dealing with one grant; we are now dealing with one locality; we are now dealing with a certain mileage of railway in one part of the North-West Territories; and we are called upon therefore, if we deal with it intelligently, to determine what maximum should be applied to ordinary agricultural lands in the region of that grant. Even there, there may be great variations in the characters of the lands which will be allotted to the company. There, also, you cannot have a perfect plan because your maximum must have regard, I will not say to the choicest morsels, but to the highest class of agricultural land properties in the grant. No doubt consideration has been given by the Administration to those questions. I presume the Minister who is proposing the grant, and the Minister of Railways —for I suppose they are jointly responsible—have considered what are the difficulties and probable cost of construction; what the prospects of traffic are, and the general qualities of the lands along this proposed railway, in respect of which this grant of 6,400 acres per mile is to be given. If this, as a branch railway, is going to cost $12,800 a mile, and if we are to suppose those lands, including timber lands, coal lands, town sites and so forth, have only to-day an average cash value of $2 per acre, we are giving the cost of the road. If the road will cost $18,000 or $19,000 a mile equipped, we still are making a free gift of two-thirds of the cost, averaging the lands at $2 per acre. I do not know, we have not the slightest information as to whether there are any special difficulties of construction, whether there are "any more rivers to cross;" whether the bridging, the grading, the excavation and so on, is expensive. I do not know what the particular character of the land is. Upon that no information is vouchsafed. Sir, the Government policy does not regard the difficulties suggested by the hon. member for Lisgar. The grant is 6,400 acres per mile all round, no matter whether the road be easy or difficult to build; no matter whether it is one immediately promising a large traffic or promising only a large traffic in the future; no matter whether the lands are more or less valuable. Except in the case of the Galt Road, 6,400 acres is the general acreage given per mile. We are entitled to ask the grounds of the Government's conclusion. We are entitled to know whether the Government have considered these things—whether they have considered what the probable cost of the road will be, what will be the probable results to the company of the road, what the probable value of this land grant will be? We are entitled to know whether the Government have been appropriating this land grant of 6,400 acres per mile, with some regard to those considerations, or whether it is all pure guess work, or whether there has not even been a guess.

OTTAWA:—Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON

MAIL CONTRACTS, &c.

TUESDAY, MAY 12TH, 1890.

Mr. BLAKE. It would be extremely unsatisfactory if the temporary service were to be less efficient than it was a while ago under the arrangement by which, I think, the *Vancouver* and another ship alternated with the faster ships of the Allan Line, so that we really got the benefit of the best ships that were on this particular voyage. Everybody knows that the Allan ships are getting more and more out of date, and slower, and we would be worse off than ever unless such an arrangement as that was made. My own impression is that there may be a great danger of our sacrificing the substance for the shadow in attempting to carry out the proposals of the hon. gentleman. I do not see any great advantage in obtaining ships capable of traversing the ocean at the rate of 20 knots, which is quite a different thing from doing a measured mile in the harbor, and unless we are able to utilise these 20-knot ocean liners at something approximating that speed for the whole voyage, there is great disadvantage in a 20-knot ship. Such a ship requires an enormous expenditure of engine power and fuel, she is very expensive to engine, she is very expensive to run, relatively, and she has but very little relative capacity for freight carrying, because her model and her requirements for storage of coal are such as disables her from extensive freight carrying. She is, therefore, an expensive ship to build, expensive to engine, expensive to run, and not profitable to carry freight. She derives her profits in carrying passengers of the highest class, at the best rate, and from carrying a certain high class of expensive freight up to a limited tonnage. Now, if you cannot take the speed out of her, it is unprofitable to engage in the service a ship of that description. There are two reasons why I fear we cannot expect to take the speed out of the ship. One is the climatic difficulty. I spoke a year or two ago with one of the principal owners of the Dominion Line, and he told me that the fast ship *Vancouver*, of which the Finance Minister has just spoken, had been two consecutive whole years running, during which she never had one chance, on either the inward or outward voyage, of making her speed. Fog or something else had intervened, and that ship had never been able to make her mark on her voyage. I suppose it is unpatriotic in me to say so, but it is nevertheless true, that our climate presents a difficulty in this respect. The other difficulty is that to which the hon. member for South Oxford (Sir Richard Cartwright) has alluded. I must confess that although not very nervous, I would not feel particularly happy in trusting my bones in a twenty-knot ship running up the gulf. She is too near the land for that speed. You can do it, of course, in a bright day, but in a great deal of weather it would be utterly unsafe to do it. For these reasons I am afraid that it is practically out of the question to expect it. Then you have to enter upon the business of endeavoring to secure—not to keep what we have got, but to secure a high class passenger trade, and you would have to do that with the alternative difficulty, during a large portion of the year, of landing the passengers at Halifax for a long rail journey, through a country exposed to somewhat inclement weather, which circumstance will not attract a high class passenger traffic. These are the difficulties which a twenty-knot service will have to meet. Now, what would be really useful for Canada is a service of somewhere of about seventeen knots. You will get it at much less rate for ships built largely for freight carrying, ships that would be run more economically and which would retain, at any rate, our freight business which we are in danger of losing as years go on. We have given half a million on the statement that we were going to get a twenty-knot service. I hope the result will not be that we shall be asked at some future Session to sanction, or be told that we have sanctioned in advance, a grant of half a million for something entirely different from a twenty-knot service. My opinion is that a seventeen-knot service is something that we could get for much less money, and it will be relatively more advantageous to us. There is no object in telling us that our ships are capable of travelling twenty knots, unless we are going to get something like that speed out of them. I would like to see this contract prescribe, not merely that the vessel should

be capable of steaming twenty knots, but what are the limits of the voyage, and what is the length of time that you prescribe from port to port. How many days and hours are to be spent from the point of departure till you reach Quebec?

Sir JOHN A. MACDONALD. I do not wish the Committee to understand that we are limiting ourselves to 20 knots. That was the proposition in the contract, and when it was made, it was with the understanding that the vessel should be capable of steaming 20 knots. We understand that a vessel fit to do 20 knots on the measured mile in calm water, could not maintain that average speed across the Atlantic. The steamers running to New York making that average time, are running far under their capability, and, if we succeed in obtaining from a 20-knot vessel an average speed across the Atlantic of 18 knots, or something less, that is what we expect to obtain. All we desire is to have a steam line across the Atlantic so fast that the mails and passengers will not avoid the line and go to New York, but that we will have a first-class line, which, both as regards passengers and mails, will be sought by the people going across the Atlantic, and a line which will fairly compete with the steamers going to New York, in such a way that it may be considered we are fighting the battle of transportation across the Atlantic on equal terms.

Mr. BLAKE. With the advantages the New York lines now have, and the enormous competition, and the magnificent vessels that have come out within the last two years, if the hon. gentleman proposes to enter into competition for the passenger travel with the New York steamers, the proposition is something wilder than any scheme I have ever heard him propose.

Sir RICHARD CARTWRIGHT. If I have judged the hon. gentleman too harshly as to the character of this proposal and some other proposals, I may remind him that he has made over and over again promises to the House of a very extravagant character, to the non-fulfilment of which we have adverted more than once. It does not lie within the mouth of the hon. gentleman who made the statement as to the population he would throw into the North-West, as to the results of his land policy in the North-West and a good many other matters I could cite, to become very indignant because we hesitate to believe that his sanguine temperament has not again misled him in the matter of the ocean service. All who have crossed the Atlantic a good many times know very well there are very considerable practical difficulties and a most enormous increase of expense in attempting such a fast line as the hon. gentleman has described. I know I am within the mark in saying that in order to get a vessel capable of steaming twenty knots as against seventeen knots if not eighteen knots, you have practically to pay twice as much. I may remark to the hon. gentleman that the New York craft, with which he expects to compete, do maintain over a great part of the voyage an average speed of over twenty knots, as an examination of their records will show. So if he proposes to compete with them, he must not merely obtain vessels capable of doing twenty knots, but vessels capable of maintaining that speed during an ordinary Atlantic passage, at all events during the summer season.

Mr. FOSTER. I should like to ask the hon. member for West Durham (Mr. Blake) if his remarks have reference to a seventeen-knot line? He did not state whether his attention at that time was directed to a vessel or a line of vessels of seventeen-knots capacity, or whether he proposed an average voyage of seventeen knots from port to port?

Mr. BLAKE. I think a seventeen-knot voyage is the highest you can talk of on your line.

Mr. McNEILL. I think there is perhaps some little misapprehension on the part of the Committee as to the freight which is carried by these ocean greyhounds. When the subject was up for discussion before, there were a good many conflicting statements made as to this matter. I took occasion to ask the junior member for Halifax (Mr. Kenny) early this Session to ascertain for me what was the freight capacity of these vessels. The hon. gentleman wrote to the agents of some of the companies, and he supplied me with the information. I find that in place of those ocean greyhounds not being able to carry more freight than 600 or 700 tons as suggested, the *Majestic* and *Teutonic* are capable of carrying something like 2,000 tons of freight.

Mr. BLAKE. Certainly; they are vessels of 8,000 or 9,000 tons.

Mr. McNEILL. The impression in the House last Session was that the ocean greyhounds were capable of carrying not more than 500 or 600 tons of freight. It was so stated broadly.

Mr. BLAKE. It depends on the length of your ship.

QUEBEC HARBOR IMPROVEMENTS.

Mr. BLAKE. The Minister of Public Works some time ago had his attention called by way of a question to the earlier portion of the interesting revelations which are from time to time enlivening the pages of *Le Canadien*. On that occasion the hon. Minister acquiesced in the suggestion that it was proper to bring before the House such information as existed in the archives of the Department in respect to the matters which are touched upon and alluded to in these earlier publications. They become more interesting as they proceed, and this last batch of three letters, themselves obviously left incomplete, themselves obviously, from their context, only parts of other correspondence, do afford ample warrant for that view of their meaning attached to them, by the hon. member for North Victoria (Mr. Barron). They do not indeed implicate the Minister, and the Minister has told us, as we might expect and hope a Canadian Minister would always be able to tell a Canadian Parliament, that he knew nothing whatever about it. But they have been public property for several days, and I know not whether any kind friend may not have anticipated the efforts of my hon. friend the member for North Victoria (Mr. Barron), to put the Minister in possession of the fact that such letters had been published, at an earlier date. Although the Minister knew nothing about the matter, I should have been glad to know from him distinctly if the reading of those letters by my hon. friend the member for

North Victoria (Mr. Barron) happened to be the first communication of the fact that such letters had been published that was received by the hon. Minister. Ill news, it is said, generally travels fast. I am surprised if this information has not reached the hon. Minister earlier than the time at which he received it from the lips of my hon. friend this day. If the information had been received, I hold it was the Minister's duty at once, for the honor of his Department, to have made a thorough enquiry into the matter which lies obviously at the source of that correspondence. I hold it to be his duty, now that it is called to his attention, to pledge himself to make that enquiry, and moreover, to indicate the results to this House. It is perfectly plain that, if the correspondence be genuine, this colleague of ours, the hon. member for Quebec West (Mr. McGreevy), was in attendance here at the time that tenders were to be considered for a great public work to be carried on in his own city; that he was here in attendance, not with the view of protecting the public interest by seeing that the lowest tenderer should get the contract, but with the view of acquiring by illegitimate means, through some untrustworthy and corrupt officer of the Department, early information, even in anticipation of the hon. Minister's own information as to the results of the calculations with respect to the different tenders, in order that a job might be put up on the Department and the public, and that some hocus-pocus work might be accomplished with the tenders. It is clear that in pursuance of that scheme, an arrangement was made whereby the moment the calculations were run through, Mr. McGreevy was to have access to them, or information as to the results. It is clear that he acquired, somehow or other, in advance, information of the fact as to who were the lowest tenderers. It is clear that he indicated to those with whom he was conspiring against the public interest, and for the private gain of the firm of Larkin, Connolly & Co., of which his brother appears to have been a member, and in whose business the hon. member is reported to have been interested, the propriety of entering into some arrangement with a person named Beaucage, to whom it was supposed the tender would be allotted, because his tender was believed to be the lowest, and this before Mr. Beaucage could know his position as a tenderer, whereby his position should be secured for Larkin & Connolly. It is clear by the final letter that, just upon the eve of the allotment of the tender, when notice was about to be given to Mr. Beaucage and Mr. Gallagher that they were the lowest tenderers, an arrangement was directed to find out some plan whereby—what? That Larkin & Connolly might be substituted in place of Mr. Beaucage, who was the lowest tenderer? No. But that Mr. Beaucage and Mr. Gallagher, who were the lowest tenderers, might withdraw in some way, might indicate that some mistake had been made by themselves or by the Department with respect to their tenders, so that the higher tender of Larkin & Connolly might become the lowest and so they might be awarded the contract. Such a condition of things could have been effective only by means of the complicity of some officer of the hon. Minister's Department. That it was so seems to be very fairly indicated by the correspondence, and, therefore, even in these last hours of the Session, I call on the hon. Minister to do again with respect to this new development, as he agreed to do with respect to the other development, to repeat at the earliest moment his pledge that he will make an enquiry, and give us the result, so that we may not close this Session with such an apparent stain resting on the hon. gentleman's Department as exists to-day.

THE LATE MR. HUDSPETH, M.P.

Mr. BLAKE. In the absence of my hon. friend, the leader of the Opposition, who has been called out of the House for a moment, I may say that, on this side of the House, we cordially concur in every word that has fallen from the right hon. gentleman. I knew Mr. Hudspeth for a great many years. He was a warm personal friend of mine from his youth; he was, as the right hon. gentleman has said, one of the kindliest and most lovable souls that ever breathed, and a man of the very highest instincts of honor. He was one of those those who, in his personal career, his professional career, and his political career, never, I believe, made an enemy, and who made friends both among his adversaries and supporters wherever he went. He was one of those who very largely conduced to soften the asperities, often too great, which occur in the course of our political antagonisms, and serious as his loss is to us in his other capacities, it is most serious to us in the other element to which I have referred, and in which he stood very high indeed in the ranks of this Parliament.

RAILWAY SUBSIDIES.

(In the Committee.)

Mr. BLAKE. As the hon. gentleman has intimated to us, that this is only the beginning and not the end of this policy, I think it would be well if he would say what the total liability is that the country is expected to incur, in virtue of this policy, as respects this railway? We have given a subsidy already. We are now asked to grant more, and the hon. gentleman says we will be asked again for another subsidy.

Mr. BLAKE. I understand the statement of the First Minister to be practically a pledge that the remainder of this road will be aided as the commencement of it is aided. It is, therefore, necessary that we should know to what extent we are pledging ourselves. That being done, I think there may be an advantage in adopting the plan which the hon. gentleman is now adopting. In times past, the hon. gentleman has taken grants for a certain mileage, and the following Session he has proposed to apply the gross sum which he had taken for the longer mileage to a shorter mileage. It will be more difficult for him to pursue that iniquitous plan under this system, and, as he has done in the past, to double up the grants. If, therefore, the hon. gentleman states frankly to us, as he has done on these two items, what he intends to do, I think the adoption of this plan may prevent him from putting himself in the way of temptation.

Mr. BLAKE. I observe that the only paper the hon. gentleman has brought down in connection with this road—though some communications I have received have led me to believe there are more papers—is a memorandum signed by the hon. member for Dundas (Mr. Hickey) on the 7th March, and another signed by Mr. J. P. Whitney

for the incorporators, both of them relating to the new corporation of this Session. In the first of these documents the hon. member for Dundas (Mr. Hickey) invites the attention of the Minister to the fact of the subsidy having lapsed, having been unearned by the existing company, which, he says, is now defunct, and he asks that the subsidy should be revived in favor of the new corporation of which, I understand, he is a promoter, as he has been for some time a promoter of Bills to achieve the object which is now embodied in the Act. I gave notice to the hon. gentleman to-day that on the occasion of this vote I should call the attention of the House to the circumstances connected with the vote of which this is a revival, and to his connection with it. Inasmuch as this formed one of those cases to which I thought the attention of Parliament and of the country ought to be directed, with reference to the connection of members with subsidised railway corporations, I had occasion, as in the case of the hon. member for Gloucester (Mr. Burns), before the last general election, to bring under the notice of the Canadian public the relations of the hon. member for Dundas to the former corporation, and I then used these words:

"The charter for the Ottawa, Waddington and New York Railway Company was obtained by a gentleman (not in Parliament) named Keefer, who was the chief promoter and mainspring of the enterprise. It is the fashion to give value to these charters by securing public subsidies. In order to give value to this charter a public subsidy was felt to be necessary. Dr. Hickey, the member for Dundas, was approached. He was given some stock; he was given a seat at the board; he was made the president of the company, so that they might obtain the proper power to work the governmental machine, so as to produce a subsidy. Dr. Hickey, M.P., presenting the merits of an enterprise which boasted of his presidency, a bonus was easily obtained from the Government, and voted by Parliament. By that means value was given to the charter; for the charter by itself simply gave authority to build and work the road, and if it had remained without a bonus, those who promoted it would have had to find persons who had confidence enough in the scheme to give money or backing enough to build it. But when $3,200 a mile was given as a free grant, of course that at once gave value to the enterprise, and was a great additional inducement to capitalists to enter upon the scheme. They got the Village of Morrisburg to take $10,000 of stock of which $1,000 was paid up. The company did hardly nothing at all; the $1,000 given in cash by Morrisburg would pay for all they did. But they did not expect to do any work themselves, or to build the road themselves. They simply expected to sell out the charter and the bonus at a great profit to those who would build the road. How do I show that? By stating that the president, Dr. Hickey, the member for Dundas, prepared a proposal for some New York capitalists to sell the charter in the form of contracting for the construction. The very first provision of this proposal was that the company must have $15,000 paid to the order of the president, Dr. Hickey, to pay for bonds and other honorable engagements. Generally that is not the way in which contracts are made. If you were letting a contract to build a barn, or a house, you would expect to pay the contractors something for the work you bound him to do, but these bonus-hunters and charter-sellers demand that the men who are to do the work shall pay them something, and so the very first provision is that the contractors shall pay them $15,000. It would be rather interesting to know what the 'honorable engagements' were. Perhaps at a later day I may communicate to you what they were, but at present I say nothing. The fourth provision is that the existing corporators must retain a majority of the board (which consists of seven), to protect their interests, they binding themselves not to interfere with financial arrangements; or, they will bind themselves to give the contractors a majority on all money outlays, respecting the construction of the road and bridges. When the road is built this may lapse, if desired. Then they demand that $50,000 shall be deposited in the banks as a guarantee of good faith, which will be forfeited to the president and board of directors in the name of the president, C. E. Hickey, if the conditions of the agreement are forfeited. In the seventh clause, they agree to give the constructors two-thirds of the entire stock of $1,500,000, so they will still retain $500,000 of stock, the contractors getting $1,000,000. Then they agree to give all the bonds and bonuses, together with any bonuses they may get hereafter, and the balance due on the Morrisburg stock, $9,000. Then comes the tenth, the last provision, which is like unto the first. They want a liberal bonus in bonds of the first issue, or cash, for the seven promoters of the road, for labor expended and good-will."

Mr. HICKEY. May I ask the hon. gentleman from what he is reading?

Mr. BLAKE. I am reading from a report of my speech delivered at Kendal.

"The labor expenditure was mainly in getting a subsidy to be paid out of your taxes, and the good-will is in their willingness to get more. So they want $15,000 in cash, $500,000 in stock, and a liberal bonus in first mortgage bonds or cash, as the price of their position. I am not discussing the propriety of promoters of railway charters—though I confess I have not much confidence in the breed—trying to make the best bargain they can. What I do object to is members of Parliament, who are called upon to say whether it is in the public interest that public money should be voted to certain railway companies, who are called on to decide on the general legislation of the country, having private interest in those counties and personal relations with the Government, which must conflict with their public duty. This system is altogether a grand scheme for animating with additional fervor, large numbers of Government supporters by the consideration that they are to make profit by that support through the establishment of improper relations with the treasury.

"And as a matter of fact the result is, that what we give out of your taxes to build a road is very largely diverted to line the pockets of members who become promoters of the work and who build the road or sell out the charters to others. I call to you to judge whether this sort of transaction should be allowed."

Shortly after I made that speech, and it had been reported, the hon. member for Dundas (Mr. Hickey) addressed to me a letter in rather angry terms. You can judge the kind of letter by the style of speech delivered by the hon. gentleman the other evening.

Mr. HICKEY. I will read the letter presently.

Mr. BLAKE. I am very glad. I am sorry to say I have not a copy, because I would have enlightened the Committee by reading a copy of it. I am not able to do so, but I am glad the letter is to be read. I answered that letter, and of the answer I kept a copy.

Mr. HICKEY. I have that also.

Mr. BLAKE. It is as follows:—

"POINTE AU PIC, P.Q.,
"August 11th, 1886.

"SIR,—On my return to Canada after an absence of several weeks, I have to acknowledge the receipt of your letter of 22nd ultimo, in which you use several strong expressions in reference to certain statements made by me as to your connection with a railway enterprise which, as I conceived, affected your independence as a member of Parliament.

"Did your letter admit the substantial accuracy of my statements, I would be very ready to discuss with you anywhere their bearing and effect on your position as a representative of the people.

"But you deny their accuracy. It must, on reflection, be obvious to you that a public meeting at which we cannot compel the attendance and answer of witnesses, or the production of documents, or carry on an examination, affords perhaps the least satisfactory conceivable opportunity to get at the truth of disputed facts.

"There is another method, which, though not satisfactory, is at any rate better; and should you challenge me to enquiry there, I shall be ready to make a statement in the House of Commons, and to support it by evidence before a Committee.

"I shall be very glad, for your sake and that of the House, if the testimony shall show that I am misinformed; but at present I regret to be unable to withdraw the statements of which you complained, as my information is very positive.

"For example, I have before me a paper which I am assured is a copy of a document prepared by you, and from which I extract the following clauses.

"'1. We must have $15,000 payable to the order of our president, Charles E. Hickey, to pay bonds and other honorable engagements.

"'4. We must retain a majority on the board (which consists of seven) to protect our interests, binding ourselves not to interfere with financial arrangements; or, we will bind ourselves to give you a majority on all money outlays, respecting the construction of the road and bridges. When the road is built this may lapse if desired.

"'5. We must have a sum of say $50,000, deposited in the Molson's Bank here at our joint credit, as a guarantee of good faith, which sum must be deposited within ten days after the signing of our agreement, and which sum will be forfeited to the president and board of directors in the name of the president, Charles E. Hickey, when the conditions of said agreement have been forfeited.

"'7. We will give two-thirds of the entire stock of $1,500,000, to be divided equally on the road and the two bridges, *i.e.*, the St. Lawrence River bridge and the Ottawa River bridge.

"'8. We will give all the bonds and bonuses, together with all bonuses we may get hereafter—the stock taken by the village of Morrisburg, which is to be paid up in full, 100 shares, 10 per cent. having been paid thereon, leaving $9,000 still due.

"'10. We want a liberal bonus in bonds of first issue or cash, for the seven promoters of the road, for labor expended and good-will.'

"Unless this be a concocted paper, with which you had no connection, you will see that it contains the substance of that part of my statements which you seem most angrily to deny.

"I believe it to be genuine.

"I am yours, &c.,

"EDWARD BLAKE.

"CHARLES E. HICKEY, M.P.,
"Morrisburg."

I subsequently became, as the hon. gentleman is aware, possessed of the original of that document, signed by himself. At a subsequent period, as appears by documents which have become public, and which were brought before the other branch of the Legislature, the parties who were concerned in this matter, including the hon. gentleman, held a meeting. The minutes of the meeting are these:

"On the evening of the 11th June, 1886, at a meeting of the board of the Ottawa, Waddington and New York Railway and Bridge Company, held at Morrisburg, the following resolution was passed:—

"'11th June, 1886.

"'Moved by Ira Morgan, seconded by Neil McIntyre, That the undermentioned shares of the capital stock of the Ottawa, Waddington and New York Railway and Bridge Company, be given to the directors for reason, as follows: To W. S. Carman, 200 shares; to Neil McIntyre, 200 shares; to Ira Morgan, 200 shares; to Chas. Odell, 200 shares; to R. C. Carter, 200 shares; to Chas. E. Hickey, 600 shares.'"

"FRIDAY, 30th July, 1886.

"The Board met this day at Morrisburg, when the resolutions of the last meeting, 11th June, were read over and adopted."

And this statement was read before the other branch:

"8th October, 1886.

"I, Charles Odell, called on Dr. Hickey at his house in Morrisburg, and asked to see the minute book, not having been present at the evening session, 11th June, or at that held 30th July. On looking over the minute book I saw and became aware for the first time of the above resolution—voting the stock to the directors, without any reason assigned. I asked Dr. Hickey whether it was paid up stock in full. He replied: No, certainly not, but it was to be held merely in trust. This I could not understand, considering we held everything in trust as directors, and it was not only unnecessary to adopt such a resolution, but irregular and fraudulent."

"20th October, 1886.

"Had a meeting of the Board at the Russell House, Ottawa, at 7 p.m., *re* resolution of 11th June before referred to, stood the same in the book as originally."

"21st October, 1886.

"This is the day of the annual meeting of stockholders for the purpose of electing a new board of directors for the ensuing year. The said meeting was called for 3 o'clock p.m.; the board met at 10 a.m.; nothing done; adjourned until 2 p.m.; then met again; no business of importance before them. I looked over the minute book and found that an alteration had been made during the interim in the resolution of the 11th June giving the stock to directors by scoring out the word 'reason' and inserting 'services as full paid up stock.' I at once told the board I repudiated the transaction, and would state so publicly at the general meeting, which I did, explaining all the above circumstances, considering it to be a fraudulent act, and one I would not be a party to."

I believe it was what the right hon. gentleman called the little family difficulties that had arisen in regard to these transactions, which I now bring before the attention of the Committee, that resulted in the formation of the two rival boards of directors, and the attendant commotion and conflict, which, of course, would thwart the efforts of any party and diminish the chances of success. I have only to say that I have taken this opportunity, when for the first time, since the period to which I alluded, a new proposition is being made by the Government to grant a subsidy to this company, and that at the instance of the hon. member for Dundas (Mr. Hickey), to lay before the House these facts, the facts which I stated in the speech which I have read, the proof of which facts are in the clauses of the documents which I have just read, which I myself abstracted from the document, and the subsequent facts with respect to the allocation of paid-up stock to the directors, including $60,000 of paid-up stock to the hon. gentleman himself. I do so, conceiving that it was my duty, as the hon. gentleman did not tender that challenge, which I invited him to tender to me, upon this subject before the last general election or at any time, it was my duty not to omit the occasion on which the hon. gentleman himself was promoting the grant of a lapsed subsidy for this same enterprise, under whatever form it may be promoted, to lay these facts before the Committee and the public.

Mr. BLAKE. You take a great deal of unnecessary trouble, Mr. Chairman, because we all know that if you acted rigorously on the rules which you apply to some hon. gentlemen, you would strike the hon. member dumb, because he could not speak at all if he did not use these phrases. The hon. gentleman has been good enough to read one of my letters in which I expressed my opinion of the only effect that abusive epithets have, and to whom alone they are injurious. I have long entertained that opinion, which I have expressed before, and which I repeat to-night; it happily leaves me in a condition of absolute equanimity under the administration of those epithets both by letter and by word of mouth. He has talked of my being guilty of vituperation. All I did was to read to you a statement which I made some years ago which is, I believe, absolutely true, and a letter which I wrote to the hon. gentleman in response to an offensive communication of his, which letter also I believe is absolutely true. It seems from what the hon. gentleman has said, and he is corroborated by the Minister of Customs, I think, that I used the

word "signed" when I spoke of this document. I have already explained that what I meant to say was that it was in the handwriting of the hon. gentleman. I do not personally know the handwriting of the hon. gentleman, but whether the document was in his handwriting or not, the question is whether it is his document. You will observe he has not denied his connection with that document, he has not denied his connection with these clauses, but he professes to defend these clauses. But one of the clauses he has not referred to at all, and it is the one which is the most important of all—clause 10:

"We want a liberal bonus in bonds of first issue or cash, for the seven promoters of the road, for labor expended and good-will."

That was really the clause of the clauses; and the hon. gentleman has not, with his absolute certainty that he is able to make the statements of that document consistent with propriety—he has not even alluded to that clause at all. I do not wish to say anything more upon this subject. I have thought fit, at the earliest opportunity I thought proper, to bring this up. I did not, as the hon. gentleman assumed, say in my letter to the hon. gentleman that I would bring it up in Parliament. I told him that if he challenged me in Parliament, I would answer him. He says there were earlier opportunities, that there were earlier Sessions—in one of which I was not here, and in another of which I was not able to act—when he propounded Bills for the incorporation of companies. These did not create a public relation between him and the Government and Parliament of this country on account of his interest in the subsidy. The subsidy at that time belonged to the other corporation, and I did not conceive that such relation was created, or was proposed to be created, till the hon. gentleman became a promoter of the application for this subsidy, and thus became once more involved in that relation to the Government and the Parliament of this country, which I conceived, having regard to his personal relation to the affairs of the railway company, was a reprehensible relation, which ought not to subsist. Upon ascertaining that, and finding that the hon. gentleman was promoting a new enterprise, and asking for the old subsidy, it seemed to me that it was fitting I should acquaint the House and the country with the state of facts, which I have brought forward in the extracts from my speech, and in the letter which I have read, and these are not denied.

Mr. CHAPLEAU. It is the ordinary clause.

Mr. BLAKE. No, it is not the principle upon which these subsidies are given at all. It is a clause which is sometimes introduced into aids given to railway companies, but the principle on which the subsidies are given is a mileage clause; no matter what the difficulty of the work may be, so much per mile is given. That is the ordinary principle.

Mr. CHAPLEAU. No.

Mr. BLAKE. Why, then, do we find a special provision here, because all the difference then would be that, instead of paying by sections of ten miles, we would pay by the sections given here. If that is what is intended, there is no need for this closing paragraph.

Sir JOHN A. MACDONALD. The whole amount of the subsidy is $5,161 per mile. This road passes through a very broken country, so that some sections will cost much more than others. One section may cost $5,000 and another only $2,000 per mile. There would, therefore, be sufficient kept back from the less difficult sections for the purpose of adding to the assistance given the more difficult ones.

Mr. BLAKE. That I understand, and that is special, and not as the Secretary of State says, the ordinary arrangement.

Mr. CHAPLEAU. This is the ordinary clause, except that it is not by sections of ten miles. The ordinary clause provides for payment by sections of ten miles; but in this case each section will be paid for, per section of ten miles, according to the proportion of value of those ten miles to the whole work undertaken.

Mr. BLAKE. No.

Mr. CHAPLEAU. My hon. friend may say no, but I say yes. If my hon. friend will look at the end of all these resolutions, he will find exactly the same provision for each ten miles as for each of these sections. I may tell my hon. friend that the difficult part of this road is between the twentieth and thirtieth mile. This resolution has not been made in this form on purpose to draw subsidies for one section more than for another; but it has been so divided because the Canadian Pacific Railway, in making the agreement which has been ratified by this Parliament, said they would guarantee a loan of $4,000 on each section. The clause is the ordinary clause, and the appropriation is the ordinary appropriation.

Mr. BLAKE. It may be so.

Mr. CHAPLEAU. It is so.

Mr. BLAKE. Then, there is no reason why there should be a special provision here which we do not find appended to the other resolutions at all. In the case of a railway, in which the proposed subsidy is more than half as large again as the ordinary subsidy, it becomes all the more necessary to take care that the subsidy is not disproportionately expended on some portions of the line; and although in principle there can be no objection at all to a proportionate expenditure, yet that necessarily involves a very careful instrumental survey and estimate right up to the end of the whole seventy miles, as otherwise the subsidy may be found to come very short indeed. There may be but a perfunctory examination and valuation; the difficult sections may appear to be those which have first to be grappled with, as the difficulties which have to be met a year or two later may appear less than those which are nearest. So it is absolutely necessary, if that is to be done, particularly when the subsidy appears to be larger in proportion to the whole cost of the work than is usual, that the examination and survey should be complete and that we should have an account of how many more rivers we have to cross. So I think it is desirable that we should know the difficulties which may occur. There is another vote later on for the Quebec and Lake St. John Railway. We have already given a large subsidy to that railway, but it is not the Secretary of State who takes a paternal interest in that, but the Minister of Militia, and his turn will come.

I see that in that connection we are to be asked to vote a sum for a bridge, which is something altogether new. I simply mention this to show that it is important that we should see that we are not led into further expenditures than Parliament expects to grant.

Mr. BLAKE. I have no doubt that that portion of Nova Scotia to which this resolution refers, in common with certain other portions which have received assistance at various late Sessions, has been very much neglected, and its progress retarded for the want of railway communication. I think it is deeply to be regretted in the interest of the whole Province of Nova Scotia that what I must call the profligate railway expenditure which has taken place in other parts of that Province, should have resulted in a failure to meet the real wants of the Province. The expenditure which has taken place in connection with the Oxford and New Glasgow Branch, being constructed at the Dominion expense, and other transactions which have resulted in lines now constructed at the Dominion expense, have produced this result: that the gross sum which the Dominion has paid, and for which it is now liable, shows a very undue disproportion in Nova Scotia relatively to the other Provinces. Take the lines to which I have referred in the counties of Cumberland, Colchester and Pictou, and take the Cape Breton Railway which is being constructed wholly at the expense of the Dominion; take the line in connection with the Gut of Canso, which has been acquired at the expense of the Dominion, and you find this large mileage of railways, some of them producing hardly any appreciable Dominion result at all, others producing some good result, no doubt. I will repeat what I said on a former occasion in the course of this very lavish expenditure for Nova Scotia, when I found in that region with which we are now dealing, an absence of appropriation altogether—I say this region is deserving of consideration, and I only wish the enormous expenditure in Nova Scotia, on the part of the Dominion, had been more judiciously made, and then it would not be found necessary to give this grant, which will not answer the whole exigencies of that Province, and may be inadequate to answer this particular purpose. I think we would have found plenty of money, on the general principles which we have applied in aiding railways for local purposes in Nova Scotia, to do everything that ought to have been done.

To the Inverness and Richmond Railway Company, for 50 miles of their railway from Port Hawkesbury to Broad Cove, a subsidy not exceeding $1,000 per mile, nor exceeding in the whole $50,000.

Sir JOHN THOMPSON. This is a line of railway running on the northern side of the Island of Cape Breton. It was fully discussed before the Railway Committee this Session, and the charter of this company was protected from interference by the rejection of another charter. The railway is to connect with the Government railway at Port Hawkesbury and to run along the coast towards Port Hood and Broad Cove. That side of the Island is studded with coal deposits, all of which are recognised as being highly important and extensive. The construction of the road, after it leaves Port Hood, towards Broad Cove, is not very difficult. The company is incorporated by the Provincial Legislature, which will probably subsidise it; the County of Inverness has likewise subsidised it. The information that I have in regard to it is that the construction of the fifty miles along that coast towards Broad Cove, is not a very difficult piece of work, and for that reason we are only asking for a subsidy of $50,000, which is little more than $1,000 per mile. in addition to which it receives a provincial subsidy of $3,200 per mile, and expects to receive a municipal subsidy as well. The line as authorised by the Provincial Legislature, extends beyond that to the northern point of the Island, but the construction there is altogether problematical, and unlikely to take place for many years to come. It likewise includes a branch from Broad Cove to Grand Narrows, which portion of the work we are not asking to subsidise. We are asked to subsidise those portions which, I understand, the Provincial Legislature has subsidised.

Mr. BLAKE. Do I understand that $1,000 a mile is all that was asked?

Sir JOHN THOMPSON. It is not all that was asked by the company, but it was all that was asked by the friends of the enterprise in the county.

Mr. BLAKE. I looked hurriedly over the papers and it seemed not only that this amount was asked, but that the Provincial Legislature's agreement to grant a subsidy was dependent on the action of this Parliament, and I was apprehensive that we would find ourselves told next Session that the arrangement had failed, and it was necessary to grant a larger sum. I observe by the Estimates, which we fortunately have in this case, and we have a little more information than usual, that the road is not an expensive one and that the County of Inverness gives $100,000.

Sir JOHN THOMPSON. The agreement provides that the County of Inverness shall give not less than $50,000 spread over these fifty miles.

Mr. BLAKE. That is $1,000 per mile; then there is this $3,200 per mile outside of the Provincial subsidy. Has the hon. Minister of Justice satisfied himself reasonably that the scheme of the company can be carried out as regards the fifty miles for $5,200 per mile?

Sir JOHN THOMPSON. I have, to a reasonable extent. The satisfaction I have had on that point is to this extent: The company, while pressing very strongly its claims for subsidies on the Dominion and the Provincial Government, actually went to work and built and graded a considerable mileage without having any contract with the Government, and they have spent a very considerable sum of money. I think they have graded about twenty-five miles. They have, moreover, entered into contracts for a large supply of ties and so on. The parties making the advances are capitalists, whose means I am assured of; but, in addition, the company have secured the assistance of capitalists in the Province, who have placed a considerable sum in the enterprise, and they have done so without any assurance that it will receive even the ordinary subsidy. Although the portion of the district through which the railway runs is not a very populous one, its indications of strong support from persons connected with that part of the country, some of them are my personal friends, indicate to me that the company has more

backing than I would have expected it, as a new enterprise of this kind. The company has gone forward at the risk of no aid being given. I do not wish the House to understand that this is the total amount asked by the company, but this aid, together with that of the Local Government, will enable the company to carry out the undertaking, I am told. The Government at a future time might think proper, in answer to an application by the company, to subsidise the branch from Broad Cove.

Mr. BLAKE. I am very glad to hear the statement of the hon. Minister, because those who recollect the first stage through which a little scheme passed, will remember that it was urged that the Cape Breton Railway was to be a simple subsidised road, and that we were to provide the necessary railway communication at very small cost. We recollect that in the end the Dominion Parliament were called on to undertake the building of that railway, certainly not with any view that we should be called to give further aid to Cape Breton. An examination of the route of the rai way made it plain that it did not serve any very important railway purposes with respect to the region to which the hon. gentleman is referring, and it was clear that if railway accommodation were required for Cape Breton there would still be a gap to be filled some other day.

For completing the Montreal and Sorel Railway Company, from Montreal to Sorel, $40,000.

Mr. BLAKE. I thought this railway was a built railway, and a bonded railway, and a fondled railway.

Sir JOHN A. MACDONALD. It was built some years ago and was for a time operated by the Grand Trunk Railway, but they refused to continue to operate it on account of its being so dilapidated. We then granted a subsidy to put it in safe condition for traffic, but through lack of funds it was allowed to get into disrepair and was partially closed. The present subsidy is to give aid to put it in good repair.

Mr. LAURIER. I would ask the hon. gentleman if he has taken the trouble to obtain a statement from this company as to how this money has been applied? When a company which has been in operation like this one, comes again seeking favor from the Government, it seems to me, that the least they should do is to have their books audited by the Government to see how the money was applied. I believe that if there had been proper management of that road, there is no reason why it should be in a dilapidated condition to-day. This railway is built through an even country, it has been favored, I understand, by grants of right of way, there is no river, between Montreal and Sorel, except the Richelieu, and they have no bridge over the Richelieu, and it seems to me that no railway could be built at a cheaper price than this one. It seems a very extraordinary thing that a road, which has been in operation for not more than eight years, if that long, should be in such a dilapidated condition now.

Mr. BLAKE. This seems to be one of those roads, I think among the earliest of the latter series of roads, which has been the cause of very great discredit to this country, by reason of the operations on the London market, of those who were concerned in it. The most severe reflections have been made upon the persons who were concerned in the issue of the bonds of this road, and Canadian credit generally has suffered very much by it. If a company, after building a road in this way, and after actually opening their road, comes to Parliament and obtains a grant in order to repair it and enable it to be opened again, gets that grant, uses it or misuses it, I know not which, keep the road open for a little while longer, then closes it again, and comes back to Parliament for another grant in order to put the road in repair so that it may be operated—where is this to stop? What guarantee in the world have we, if we make this grant, that this sort of thing is not to go on for ever? This condition of things seems to me to be intolerable. A business-like inspection of the affairs of the company should have been made in the first place to see that the management of the road was such that the aid proposed to be given would put it in proper repair, but now we find the road closed again, and we are called upon to pay money to keep it open. Where is this going to stop?

Sir JOHN A. MACDONALD. The first vote was $1,600 a mile, and I suppose that the money raised in addition to that sum by bonds and otherwise was insufficient to make the road a first-class permanent road. There was a great deal of trestle work, which partly accounts for the road getting into disrepair. I dare say that if it had got $3,200 a mile it would have been built as a first-class railway, as it ought to have been built. But when we are informed—I was not aware of the fact until just now—that the road got only half the subsidy given to other railways, I think the hon. gentleman can well allow this road to be put into full and complete repair. The first building of the railway was carried on by the company, and all the Government had to do was to examine 10 miles when built. However, this money will not be given at all to the company. Warned by previous experience, we have decided that the money shall be expended under the direction of the Government officers just as if it were a Government railway.

Mr. BLAKE. The hon. gentleman says that this road would probably be all right if the company had before received $3,200 a mile. But we on this side of the House knew that it had received only $1,600 a mile, and we knew the reason why. It was because this road was built and running when the system of subsidies was invented, and the amount of $1,600 was to repair it. It was not to build the road; but it was so badly built or was so old, or the company had managed it so badly, that the road had got worn out, and to repair it and make it as good as new, the hon. gentleman made that grant. This time the company are not to be trusted; but we all know that the Government are to be trusted; they never make extravagant expenses; they are economical; and so the hon. gentleman gives us to understand that this economical and wise Government will take charge of the expenditure of this money. But what security have we that the road will be kept in repair after that? First, the company built the road; then they ran it down; we subscribed $1,600 a mile to get it repaired again; then they ran it down again; and now we are to vote $40,000 to repair it again. What certainty have we that the road

will not be run down again? There must be something wrong with the road or with the corporators, perhaps with both. If the hon. gentleman had explained to us how this road, after being once built, could not be kept open, and how after having been once repaired, it could not be kept open a second time, and how the same thing was not going to occur after this third grant, we might have some reason for it. We know nothing of the cause of the former failures, and we know not that the same cause may not continue to exist and produce a third failure.

To the Pontiac Pacific Junction Railway Company for 7½ miles of their railway, from Hull to Aylmer, a subsidy not exceeding $3,200 per mile, nor exceeding in the whole, $24,000.

Mr. BLAKE. This seems to be another innovation. It is not a subsidy to build a railway or to repair a railway; it is a subsidy with reference to some 7½ miles of a railway which already exists and is in repair; it is to assist the Pontiac Pacific Junction Railway Company to buy that piece of road from the Canadian Pacific Railway Company. The Canadian Pacific Railway Company can either lease it or sell it to the Pontiac Pacific Junction Railway Company; but the proposition is that we shall contribute towards the purchase money the sum of $3,200 a mile. What public interest in the way of development is to be served by this subsidy? The road is not going to be sold at more than it is worth, and if the Pontiac Pacific Junction Company buy it at what it is worth, they can afford to pay what it is worth. But I believe this is not the first time that we have been called on to pay for this road, for I think it is part of the Quebec, Montreal, Ottawa and Occidental Railway, which was built by the Province of Quebec, and was sold by the Province of Quebec to the Canadian Pacific Railway Company at a discount, and in respect of which this Parliament afterwards contributed to the Province of Quebec a large sum, about, I think, $1,000,000, to make up the difference between the cost and the value of the road. The Province of Quebec having on the sale lost a considerable sum, it appealed to us in reference to the general proposition of the extension eastward of the Canadian Pacific Railway. It appealed to hon. gentlemen opposite in various ways. It appealed by petition; it appealed by memorials; it appealed, not by open representations in Parliament but by the convention in No. 8; and it succeeded in obtaining a large grant from the Dominion revenues to make good its loss on that operation. The Dominion paid the loss to the Province of Quebec, or so much as it was thought equitable to pay, in respect of the whole line which had been sold; the Canadian Pacific Railway had acquired it, and I thought we were quit of it. Then the Pontiac Pacific asked for leave to acquire it, and the Canadian Pacific Railway got leave to dispose of it. Why then should we step in now and pay $24,000 more to the Pontiac Pacific Junction Railway Company, to enable it to pay a part of the price of the acquisition of this railway. I observe that the application made in this report asks the Government, in making the grant or any other grant to the Pontiac Pacific Junction Railway, to have regard to the creditors of the road, those employed on the road, and also to the interests of the county. Some of us may yet remember the circumstances connected with the earlier agitations for subsidies for this road, a considerable portion of which have been paid, and some of which, I believe, remain as yet unpaid, in which it turned out that an understanding had been reached between the authorities on behalf of the County of Pontiac and the railway itself that, for whatever aid the representatives of the County of Pontiac might be able to acquire from a kindly and paternal Government and a generous people, the County of Pontiac should receive credit, I believe, from time to time. The county of Pontiac had given $100,000 in bonds as its contribution to this road; and if Parliament here were to grant $100,000 or $50,000 towards that railway, then Pontiac county was to get the benefit of it; so that the application made to us here, and which was conceded, was in substance, although not in terms, a grant in ease of the county of Pontiac, to save it from the payment of its municipal bonus. I believe this was the arrangement, although it was not signed, sealed, or defined in some formal instrument. I believe it is not yet, but perhaps may be implemented. But such it was. I think the hon. the Secretary of State, who, I am glad to say, has just come in, has a good deal to do with this railway. He and Mr. Church and a few others were the board of directors; and during the period of the earlier events of which I have spoken, the hon. gentleman was interested, to a very large extent, in the road. I do not know if his interest still continues, but I should like to know from the Government how it is that, under these circumstances, it is proposed we should purchase, on behalf of a railway company, an existing railway, which that company is able to acquire at its value, and in respect of which we have already expended quite a considerable sum.

Mr. CHAPLEAU. I had no interest in that road, and I am not interested in defending this vote. A subsidy was voted in 1884 for a line from Hull to Pembroke.

Mr. BLAKE. No; it was from Hull or Aylmer.

Mr. CHAPLEAU. From Hull or Aylmer? That is to say, it was from Hull. In 1884, the House voted a subsidy from Hull to Pembroke.

Mr. BLAKE. From Hull or Aylmer?

To the Quebec Central Railway Company, for 90 miles of their railway, from St. Francis Station on the Quebec Central Railway to a point on the Atlantic and North-Western Railway, near Moose River, or from a point on the Quebec Central Railway between the Chaudière River and King station, to a point on the International Railway at or near Lake Megantic, in lieu of the subsidy granted by the Act 51 Victoria, chapter 3, a subsidy not exceeding $21,191.54 per annum for twenty years, or a guarantee of a like sum for a like period, as interest on the bonds of the Company, such annual subsidy for twenty years representing a grant in cash of $288,000.

Mr. BLAKE. Was the subsidy formerly granted otherwise than in this shape?

Sir JOHN A. MACDONALD. Always, with the guarantee and all.

Mr. BLAKE. I suppose we do not guarantee the bonds until construction.

Sir JOHN A. MACDONALD. The hon. gentleman will see that the conditions are set forth in the latter part of these resolutions.

To the Quebec and Lake St. John Railway Company, for a railway bridge over the St. Charles River, to give access to the City of Quebec, a subsidy not to exceed in the whole $30,000; also for 12 miles of their railway from Lorette *viâ* Charlesbourg, to Quebec, a subsidy not exceeding $3,200 per mile, nor exceeding in the whole $38,400—$68,400.

Sir JOHN A. MACDONALD. This road now connects with the Canadian Pacific Railway about five miles out of Quebec; they have found it a roundabout way of reaching Quebec, and the line has to encounter a very heavy grade.

Mr. BLAKE. What is the estimated cost of the bridge?

Sir ADOLPHE CARON. Upwards of $200,000. It is a very large bridge, crossing the River St. Charles opposite the gas works.

Mr. BLAKE. What is the estimated cost of the 12 miles of the road?

Sir ADOLPHE CARON. It is an expensive piece of road. I have not got the estimate, but the right of way is very expensive, as it comes down through one of the best portions of the country. Some of the grades are heavy.

Mr. BLAKE. We all know that it would cost more than $3,200 a mile. That is a heavy piece of road, the right of way is going to be expensive, it is going to include the termini. So this will amount to $240,000 for the railway and $200,000 for the bridge, or $440,000, to which must be added $60,000 for pickings, which is very moderate in that locality, or in all half a million dollars. But the road has already access to the city of Quebec over the Canadian Pacific Railway, and it is thus proposed to spend half a million dollars to give them better facilities for entering the city. I think that this proposed grant could be very much better expended.

To the St. John Valley and Rivière du Loup Railway Company, for 22 miles of their railway from the village of Prince William towards the town of Woodstock, in lieu of the subsidy granted by the Act 50-51 Victoria, chapter 24, a subsidy not exceeding $3,200 per mile, nor exceeding in the whole $70,400.

Mr. BLAKE. But the hon. gentleman must remember that, although the First Minister may desire to calm the perturbed feelings of the hon. member for Albert (Mr. Weldon), the First Minister is going to throw the whole community into a state of agitation, for the hon. gentleman has already said that the Intercolonial was burden enough for this country to bear, and that he had no idea of taking over the branches.

INDIAN ADVANCEMENT ACT.

Mr. BLAKE. I wish to remark on only one section of this Bill, that is, section 9. If I understood the Minister aright, he says it is introduced at the request of some council of the Indians; but I do not think even that circumstance, extraordinary as it is, is a justification for the introduction of this provision in the Statute-book of Canada. That section provides for the punishment by imprisonment of any Indian proved guilty of deserting his or her family, wife or husband, as the case may be, without just cause, or of living in concubinage. I do not see on what principle we can undertake to apply very much more severe penalties, or a higher standard of morality to Indians, than we propose to enforce among the white population of this country. You say the Indians are less advanced than we are, that they occupy a lower position in morality, that some of them are pagans, that the christianity of some of them is not as high as we boast our own to be; they are to be guarded carefully; but then why in the world should you propose to enforce, by the criminal law, these provisions against them when you do not in the same way enforce such provisions against whites?

On section 11,

Mr. BLAKE. The words "an Indian on the reserve" would mean an Indian who lives on a reserve.

Mr. PATERSON (Brant). This will be circumscribing their liberty very much. You would not be allowed to go on a reserve and have any dealings with the Indians, not even to sell to them for cash.

Mr. DEWDNEY. This is to prevent traders from starting stores on a reserve without consent.

Mr. PATERSON (Brant). In absolutely forbidding any trading on a reserve, you would prevent Indians engaging in perfectly legitimate dealings. This, of course, applies to all the bands. Take the reserve in my riding, where the Indians are advanced. They engage in buying horses and cattle, and if they should do so on the reserve it would be illegal.

Mr. BLAKE. You had better apply your law to the locality in which the mischief arises and not anywhere else.

Mr. McNEILL. Very often traders bring liquor with them on to the reserve to sell to the Indians. In my constituency the Indian agents have complained of men coming on the reserve to trade but really to sell liquor.

Mr. BLAKE. Better amend the clause by making this portion refer only to Manitoba and the North-West.

OTTAWA:—Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON THE

INTERPRETATION ACT AMENDMENT,

AND

CRIMINAL LAW AMENDMENT.

THURSDAY, APRIL 10TH, 1890.

Mr. BLAKE. I would very much like to know, in fuller detail from the hon. Minister of Justice, how far these proposed alterations are in accord with what he understands to be the present practice of interpreting statutes in the same regard in England, and to what extent they are in accord with what has been adopted in the Provinces; because I cannot conceive anything of greater consequence than that we should not without reason create diversities in the principles of interpretation. Our great difficulty, I might almost say our great scandal, at present, is the uncertainty of the law, and if we change the principle of interpretation, we deprive ourselves of the light given by the great body of judicial construction to statutes.

Mr. BLAKE. It seems to me reasonable that we should not repeal any Act which is not in force. If we perform the unnecessary operation of doing that, we expose ourselves to the judicial view that we are doing something that we think necessary, and that we did suppose that it was in force or we should not have repealed it. Of course, we are just now passing a law for all time—not to meet contingencies which we have already got rid of, or the case of obsolete laws; but we are adopting a canon of construction and interpretation which is to apply to Acts of Parliament which have been passed since Confederation, and which will be passed in the future. Taking it as a general proposition, that as law makers we do not undertake to repeal a law that is not in force, it is a fair inference, from the fact of our repealing it, that we assumed that it was then in force. What I dread, from the whole plan of the Bill, is that some of those landmarks of decision, those judicial inferences which have been drawn from time to time, may be got rid of—that everything may be left at large and loose to create fresh uncertainty as to the construction and interpretation of the law.

Mr. BLAKE. That is just the question, whether it is not a fair inference, from the solemn legislative Act of this Parliament repealing a law, that this Parliament conceived there was a law to repeal.

Mr. BLAKE. I am not aware of the particular case to which the Minister of Justice has alluded, but I presume it was one which the Provincial Legislature thought came within their jurisdiction, and that the repeal by this Parliament was *ultra vires*. I cannot see any other ground on which the Provincial Legislature could interfere at all in the matter. We well know there was a certain class of legislation before Confederation—perhaps more than one class—in respect of which there was a somewhat divided authority after Confederation, which rendered it necessary, in order to effect a complete repeal, that there should be legislation both provincial and federal. But no inference can be drawn from such cases to apply to cases which arise after Confederation.

Mr. BLAKE. The action of Parliament with reference to a pre-existing law may be said to consist of two divisions—amendment and declaration. There may be cases in which Parliament may think the courts have not fairly interpreted the meaning which Parliament intended to give to an Act, and Parliament may exercise the somewhat delicate power of declaring what it meant by its former Act, and may thus interpret its own legislation. That would be an Act declaring, not that the legislation in itself was ever different from what Parliament declared it to be, but that such was the meaning of the law *ab initio*. That is declaration. The other form is that of amendment, and it is with that this sub-section deals. If you amend, you do change. You may change for the better or worse, but an amendment is, or is intended to be, a change, and when we proceed to say, that in performing an act, the very essence

of which is change, the presumption is not to be one of an intent to change, we are performing again what is a very extraordinary operation, and once again getting rid of what, upon the whole, has seemed to me to be not an inconvenient view on the part of the judiciary. It is quite true that the construction may be sometimes, as to this and the other instances, a fiction. But with reference to this sub-section, I think it must be plain that when a body of legislators engage in the process of amending a law, they indicate, by that very act, their view that they are changing the law, or, at any rate, it must be presumed that those in that body who are mainly responsible for the legal and formal portions of the legislation, are engaged in such a process. On the whole, it seems to me that the same objection which applies to the first section applies to this one.

CRIMINAL LAW AMENDMENT.

Mr. BLAKE. I would ask the Minister of Justice if there is any sufficient reason for the limitation of the age to twenty-one years, because, if I have not been misinformed, very painful cases have occurred where the age was over twenty-one, and where the impoverished condition of the unfortunate woman, and her state of subordination, was the cause of the seduction ?

Mr. BLAKE. I doubt very much whether there is any other class of cases in which there is more danger of brutalising people than in the class of cases dealt with in this clause 3, and I would suggest that the penalty of whipping be added.

Mr. BLAKE. I regret to say that we sometimes read of cases of such assaults on daughters of very tender years. What opportunity have we to secure the conviction of the guilty party, under these circumstances, and to procure the necessary evidence? The main thing we have to grapple with is the crime of greatest enormity which can be committed: that of a father taking advantage of his almost absolute power over his young child, and will not the liability of the child to a long imprisonment be an additional obstacle to securing the necessary evidence ?

Mr. BLAKE. The question with which we are now dealing is one of considerable importance to-day, and it may be of still more importance in the future. I think it is not unfit that we should have what the attitude of the Government is, with reference to the persons whose existence in our midst has given rise to this legislation. We have noticed from time to time in the public prints, reference, to visits of persons of high consideration and authority in the Dominion, to the settlement of these persons called Mormons, or Latter-Day Saints, in the North-West, and occasionally encouraging words have been used towards them with the suggestion, I believe, that they have got to obey our laws—but still encouraging words which it would seem to me were, perhaps, rather out of place. There are in the Province of Ontario, in various sections, certain small scattered communities of Mormons of the earlier period under the Joseph Smith dipensation, who remain monogamists, who, I believe, separated from the Church of the Latter-Day Saints on the occasion of the change which was effected at the time of Brigham Young, and which change mainly consisted in the matter which we are now engaged in attempting to meet. With reference to such persons, we, of course, have nothing to say, but it is right to observe that the difficulties which the United States has had to contend with in respect to the Mormons of Utah since the Brigham Young dispensation are serious and growing; and that from time to time earnest efforts have been made to overcome what seems to be an almost insuperable difficulty, owing to the extraordinary solidarity of these people and their determination to persist in and to conceal all legal evidence, at any rate, of their practices. As far as one can judge, there is now a disposition on the part of a considerable number of these people—if not on the part of their authorities themselves—to seek some more congenial place, wherein they hope to be able to carry on these practices, for the sake of which they are prepared to give up their position in Utah. It seems to me, as far as I can judge, that it is in the course of an effort to find a resting-place elsewhere than in Utah that the settlement has been made in the North-West Territories; and being made under such circumstances, and as far as I can see, with such intention, I can only highly approve of the effort which the hon. Minister of Justice is making to provide stringent laws against the practices which are condemned by these clauses of the Bill. But I think it well, also, to say that the question is, in more respects than this, a serious one, and that it calls upon us for some very strong expression of sentiment in discouragement of the settlement of Mormons with these peculiar views and notions in our midst. I happen to have before me a copy of the will of Brigham Young, in which he made careful provision—I do not know how ample, because I do not know what his estate was—for his rather numerous family. They are divided into some twenty-three or twenty-four classes, the earlier of which consists each of a wife and the child or children by that wife, and the latter of a batch of wives who seem to have been childless. In the course of this will he uses language which it may be useful for the hon. gentleman to know. After having made provision for these numerous persons, he says in the 34th clause :

"To avoid any question, the words married or marriage, in this will, shall be taken to have become consummate between man and woman, either by ceremony before a lawful magistrate or according to the order of the Church of Jesus Christ of Latter-Day Saints, or by their cohabitation in conformity to our custom."

Simple cohabitation, therefore, in conformity to the Mormon custom is one of the rules by which Mormon marriage shall be recognised. I find, in the compilation which contains this will, this statement with reference to Mormon marriages :

"Sometimes they have witnesses, sometimes not; if they think any trouble may arise from a marriage, or that a woman is inclined to be a little perverse, they have no witnesses, neither do they give marriage certificates, and if occasion requires it, and it is to shield any of their polygamous brethren from being found out, they will positively swear that they did not perform any marriage at all, so that the women in this church have but a very poor outlook for being considered honorable wives."

The same difficulties with reference to the regulation of the Utah Mormons, as distinguished from those to whom I referred, the old Mormons of the former dispensation, have crept up in another way. In 1889 a judgment of an associate justice

of the Supreme Court, Mr. Justice Anderson, was delivered, upon an application made by some of these Mormons to be admitted as citizens, upon which application the evidence of a number of persons was taken as to their views and principles. Evidence was given by no less than eleven persons who had been Mormons, some of whom had occupied very high positions in the church or organisation, and a number of details were given, which I will not weary the Committee by reading; I will refer simply to the conclusions of the learned judge, which are sustained by extracts from the evidence and from writings of the people. He says:

"During the ten days this investigation lasted not a word of evidence was introduced or offered showing that any preacher or teacher of the church ever, in a single instance, advised obedience to the laws against polygamy. On the contrary, the evidence in this case, and the whole history of the Mormon church in Utah, shows that it has persistently refused obedience to at least a portion of the laws of the Government, has insulted and driven United States officers from the territory, has denied the authority of the United States to pass laws prohibiting polygamy, as an unwarranted interference with their religion, and, generally, has antagonised and denounced the Government in almost every possible way."

Then the learned judge sums up the evidence brought before him as to the teachings of the church:

"First: That it is the actual and veritable Kingdom of God on earth, not in its fullness, because Christ has not yet come to rule in person, but for the present he rules through the priesthood of the church, who are His vicegerents on earth.

"Second: That this kingdom is both a temporal and spiritual kingdom, and should rightfully control and is entitled to the highest allegiance of men in all their affairs.

"Third: That this kingdom will overthrow the United States and all other Governments, after which Christ will reign in person.

"Fourth: That the doctrine of 'blood atonement' is of God, and that under it certain sins which the blood of Christ cannot atone for may be remitted by shedding the blood of the transgressor.

"Fifth: That polygamy is a command of God, which if a member obeys he will be exalted in the future life above those who do not.

"Sixth: That the Congress of the United States has no right under the constitution to pass any law in any matter interfering with the practices of the Mormon religion, and that the Acts of Congress against polygamy, and disfranchising those who practice it, are unwarrantable interferences with their religion.

"Can men be made true and loyal citizens by such teachings, or are they likely to remain so surrounded by such influences? Will men become attached to the principles of the constitution of the United States when they hear the Government constantly denounced as tyrannical and oppressive? It would be as unreasonable to expect such a result as it would be to expect to gather grapes from thorns or figs from thistles.

"It has always been and still is the policy of this Government to encourage aliens, who in good faith come to reside in this country, to become citizens; but when a man of foreign birth comes here and joins an organisation, although professedly religious, which requires of him an allegiance paramount to his allegiance to the Government, an organisation that impiously and blasphemously claims to be the kingdom of God, to control its members under His immediate direction, and yet teaches and practices a system of morals shocking to christian people everywhere, under which the marriage of a man to two or more sisters, or to a mother and daughter, is as a sanction, an organisation that sanctions blood atonement as a means of grace, and murder as a penalty for revealing the secrets of its ceremonies, and which for nearly half a century has refused to acknowledge the supremacy of the United States, or render obedience to its laws, it is time for the courts to pause and enquire whether such an applicant should be admitted to citizenship.

"The evidence in this case establishes unquestionably that the teachings, practices and aims of the Mormon church are antagonistic to the Government of the United States, utterly subversive to good morals and the well-being of society, and that its members are animated by a feeling of hostility towards the Government and its laws, and, therefore, an alien who is a member of said church is not a fit person to be made a citizen of the United States."

And the applications were refused. I observe that it is stated that the Mormons who have settled in Canada are not now practising polygamy, though some authorities, who appear to have investigated the matter, say there is a suspicious disproportion of the sexes among them. I have a letter from a friend who happens to be temporarily a resident of Utah, and who is cognisant of the course of events there transpiring, with regard to some of those who have come to Canada, and he tells me that in some instances the Mormons who have gone into the North-West Territories have for a time left their old wives behind them, but he learns that they have each taken a fresh young one. How long that will last I do not know, but that is their solace at present for their residence in Canada. Notwithstanding the anxiety the hon. members from the North-West have shown during the last few days to promote immigration, I fancy they will not be very anxious to promote immigration of this character, and I do not suppose that any of us feel, under the circumstances, that such immigration is of a useful or wholesome or profitable character. I am not suggesting at this moment that we cannot do more than, by the most careful and comprehensive legislation, provide machinery for the discontinuance or the prevention of these abominable practices which we know these people engage in under pretence of religion. No one who peruses the evidence taken in recent years in the effort to establish the fact of that cohabitation which the hon. gentleman is endeavoring to render criminal here can doubt that this is a matter of extreme difficulty, and that longer experience on the part of those who commit these practices, and the greater precautions they will take to escape detection will render it a matter of still greater difficulty to prevent the continuance of those practices. Therefore it seems to me that we are bound, not merely to support the hon. gentleman in any reasonable effort to stamp as a crime and to render as effective as the circumstances of the case will allow the provisions of any law against the crime, but that also it should be indicated at the earliest hour that it is not words of encouragement but words of discouragement which this Parliament, as the representatives of the people, have for the Mormons and their abuses, and practices, and the views they entertain of civil government and allegiance and on this marriage question, with the intention of carrying out which, I fear, they are coming amongst us.

Mr. BLAKE. It is very well understood that the reason the Mormons left the United States is the difficulty they have with the American Government arising out of this question of polygamy.

Mr. BLAKE. That is a most serious question; and when they object to remaining in another country where the laws are practically the same as here, only, perhaps, less strict, it is difficult to understand why they should come here to obey our laws.

Mr. BLAKE. I desire to ask the Minister of Interior whether he has received any report

from the Lieutenant Governor of the North-West Territories, who, I understand, paid a visit, not very long ago, of two days and two nights to the hamlet in which these people live, and who, I am told, expresses the opinion that they are not quite so monogamous now as is represented?

Mr. BLAKE. I have understood that the Lieutenant Governor of the North-West Territories received an address from these people, and, I think, specially from Mr. Card, whose wife, I understand, is one of the numerous daughters of Brigham Young.

Mr. DEWDNEY. That is not offering inducements to come in there.

Mr. BLAKE. No; but it is inducing them to stay there.

Mr. BLAKE. The hon. member has misunderstood me a little. My position was not that we should pass a law to prevent them from coming in.

Mr. BLAKE. I wish, at any rate, to have it understood that what I said was, that, looking at the whole circumstances, I could not relieve my mind from the impression that these people were coming here in the hope that they would be able to re-establish in our country a condition of things which they had found it difficult to continue in the United States, and that I thought it was important that words of discouragement should fall from the representatives of the people in this country against their coming here with any such notion or idea as that, and that they should learn in a very marked manner that we would not permit the scheme to grow and assume proportions more difficult and more dangerous to grapple with than it is now; and that if they do come here they must come here not merely under a pretence of obeying the law, but that they must do so in reality.

Mr. BLAKE. I do not see why there should not be in this case discretion given to the judge of punishing either by fine or by imprisonment, for, if the offence may be most serious, it may also be most trifling.

Mr. BLAKE. With reference to this, I am not familar with the practical operation of the law; but a representation has been made to me by a gentleman of very considerable experience in one of the largest centres of population in the Province of Ontario, that the operation of the process of election, when it takes place before a magistrate, without the presence of some responsible functionary representing public justice, is sometimes very unsatisfactory, and that the prisoner does not obtain that information and opportunity for consideration which he ought to have, before deciding on the course he shall take, the result of which is not infrequently, as stated to me, that election takes place, and a hurried trial proceeds and conviction is obtained under circumstances on which conviction should not take place. The suggestion made to me was that there should be fewer facilities for procuring the election, unless in cases where the Crown was represented by some functionary who should see that justice is done towards the prisoner. I am not myself practically acquainted with this matter, but the gentleman who made the suggestion has a great amount of experience; and I would ask the hon. Minister of Justice whether any suggestions have been made to him in that respect?

Mr. BLAKE. Has any provision been made for regulating the method by which intermediate sentences shall be terminated, or by what authority they shall end?

Mr. BLAKE. Would it not be more convenient if the hon. gentleman would put these additional clauses on the paper, with the notice that he would ask our assent to them at the next sitting of the Committee?

OTTAWA: Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECH OF HON. EDWARD BLAKE, M.P.,

ON

THE MEMBER FOR LINCOLN.

MONDAY, 17TH MARCH, 1890.

Mr. BLAKE. With much that the hon. President of the Council has said, I quite agree. I agree with him as to the spirit in which this House should approach the consideration of this question. I agree with him that least of all questions which can be brought before this House, ought this one to assume in any sense a party complexion. I suppose all must have been struck by the observation made by the hon. member for Lincoln, when he gave his explanation at the opening of this debate, that expression of regret which, he said, he entertained at his unfortunate position, in that after having made his speech he was to leave the House and was disabled from participating in the debate which would follow. If that debate were to take the tone which the hon. member for Lincoln obviously conceived, if it were to proceed on the lines he obviously indicated, the regret of the hon. gentleman would have been justified, and the rule to which he gave deference by his retirement would have been proved to be an unreasonable rule. But, Sir, the regret was unfounded and the rule is an entirely reasonable rule; because that vacant chair speaks more strongly than the most eloquent language we could hear in favor of the member who is absent from it. It speaks in solemn tones, and appeals to us in terms more forcible than any tongue could use as to the line which we should take, the tone we should adopt, the spirit which should animate us in disposing of this case. Why is that chair vacant? It is vacant because our colleague is, according to the principles of reason, disabled and disqualified from being the judge in his own cause. But, then, it is a cause in which we are his judges; and it is, therefore, in a judicial capacity, strictly in a judicial capacity, that we have to deal with the matter, thus I agree wholly with the observations of the hon. the President of the Council, and also in the phrase dropped by the Minister of Justice at an earlier stage of the debate, that we are acting here as judges of the cause. Sir, under these circumstances we have no warrant, whatever may be the latitude, the regrettable latitude, which we permit to ourselves under other circumstances, when we are present face to face and are able, if attacked, to reply to the attack—we have no warrant here and now, to mingle invective with reason, to heighten the complexion of the transaction by any rhetorical devices, to blink the facts, to take any other course than, in a spirit of candor, fair play and impartiality, to endeavor to ascertain the right and the truth. I agree with the observation of the hon. the President of the Council that the honor of the whole House is concerned in the matter. It is concerned in all such matters. The honor of the House is in a sense in the hands of every member of the House. No course of conduct discreditable in the general sense of the community can be pursued by any single member without, to some extent, at all events, lowering the character of the assembly of which he forms a part, and in this view it is our common interest, as members of Parliament, that the transaction, whatever it may be, should not be depicted darker than its true color, and that every reasonable protection should be accorded to the man who is accused. On the other hand, Sir, it is even more clearly the duty of the House to watch jealously that honor of which it is the guardian, and to take care that it does not become, by any unworthy connivance in a discreditable transaction, an accomplice after the fact, and so degrade itself to some extent to the level of those who may be concerned in such transactions. The situation is, under these circumstances, painful. I agree with the hon. gentleman in the view that it ought not to be made in any sense a party question for those reasons which I have given, and for other reasons too; for reasons which, taking a somewhat lower ground, are particularly applicable to those who may happen for the time to be on the side of the minority, because if there be any section of the House that has a deeper interest than another in the observance of these principles, it is those who happen to be in the minority. Their only chance for the affirmation of charges justly made against a member of the majority, consists in the observance of the principle of justice. Their only chance for the avoidance of a condemnation of a charge unjustly made against

a member of the minority, consists in the adherence to this principle of justice; and to introduce a political complexion into matters of this kind, would at one blow render it impossible for a minority to obtain justice against an adversary, and render it impossible for a minority to obtain justice for themselves. Therefore, those who happen to sit on the side of the House on which I sit are especially charged with the duty of holding up that standard of justice to which the hon. gentleman has appealed. Then, Sir, it is on those principles of justice that we ought to act, and I ask myself, applying myself to this case as it is now presented, whether the application of the principle of justice renders premature, at this moment, a final judgment on the main motion. The member for Lincoln, as the hon. President of the Council has said, has asked for a committee. I cannot say that in my judgment the best, the convenient, the fittest course to deal with this case, is to refer it to a committee. My own opinion is that the best, the proper and the convenient course is that it should be disposed of here, for reasons that I will state to you in a moment. When we shall come to dispose of it, either here or elsewhere, I hold myself free, nay, I hold myself bound—as I suppose every hon. member will—upon such evidence and arguments as shall at that time be before us to examine carefully into every recital of the motion that is presented to us, and to ascertain whether those recitals are fair and full; to examine whether the *résumé* is accurate and true; and to examine whether the conclusion which is drawn from those recitals and from that *résumé* is just and fitting; and either to negative, or to amend, or to affirm, as the result of that examination indicates is right. But that, Sir, is not the immediate question. The immediate question is, not what judgment should be pronounced upon the main motion, but whether we should refer the case to a committee, and I ask myself: why we should refer, and what we should refer? I believe that each case of this description should be dealt with according to its circumstances, and that if there be a question complicated and difficult, involving the examination of witnesses, or a subject complicated and difficult, involving a long search into precedents, it is fitting and convenient that the sifting of evidence by the examination of witnesses, or the long search into a series of precedents, not heretofore collected, should be accomplished by the Select Standing Committee that we erect for such purposes. But, I believe that in every case we are called on to consider, whether the case in hand is one that calls for the interposition of that machinery, and the intervention of that committee. Cases have been referred to in the past. It has been said by the hon. member for Jacques Cartier (Mr. Girouard) that there was a rule for and a right to a reference to a committee. I do not know where the hon. gentleman found the statement that there is such a rule, or that there is such a right. I dispute the existence of the rule and of the right. I know that leading gentlemen on his side of the House, have from time to time, in days that are past, proposed a much more summary disposition—the most summary disposition possible—of matters brought before the House, and, according to my recollection of the objections taken to that summary disposition when proposed, they were based upon the special considerations to which I have referred. Particular reference has been made to the motion with regard to one of your predecessors, Mr. Speaker, in the chair. In what form was that motion made, and supported by the whole body of the Conservative party in Parliament? It was made, Sir, directly against the Speaker of this House, with that Speaker in the chair, upon a motion to go into Committee of Supply, as an amendment, in which form it was not amendable, in which an instant decision was instantly sought, and when the party whose conduct was impugned, and whose seat—if not in absolute terms, yet by a necessary implication was fatally assailed—was prevented from saying one word in his own defence. The hon. member for Jacques Cartier (Mr. Girouard) indicated that there was some right on the part of the Speaker of the House to ask the indulgence of the House to leave the chair, in order that he might make a statement on the floor. I am not familiar with the precedents upon which the hon. gentleman justified that statement, but I say that if there be such, and I am quite ignorant of them, they are precedents which ought not to have been invoked. My own opinion of the conduct of those members of the House who in that case made that proposal was that, altogether regardless of another consideration to which I shall briefly refer, they took, not merely an unreasonable, but I will say a hard, a rigorous, and an offensive course, in making the motion in the form in which it was made. My opinion was, that a due regard for the principle of justice would have caused the motion to be made in such a form as that those who moved it would have secured to the man whose character and whose seat was assailed, an opportunity of defending himself. Sitting as he did in the Speaker's chair, they ought to have known that the only mode by which that result could be obtained, would be by a motion to refer the matter to a committee, before which he could appear. Beyond all that, there were important questions to be disposed of. There were questions to be disposed of, questions of fact, and also questions of law, based on former precedents, which appeared to justify the view that the seat was not vacated, and, therefore, there was a reason in the search for precedents and in the taking of evidence for a reference of that case. There were many meetings of the Committee on Privileges and Elections. As happened in other controversies which occurred when the Liberals were in a majority in this House, the effort was to do that justice which the hon. the President of the Council appealed to us to-night to endeavor to attain. The case of the Speaker was a case in which a prominent member of the majority was attacked. There was also a case in which a member of the minority was attacked. And in each of these cases I rejoice to think, that the majority entered into the investigation, sought for the truth, ascertained the truth, and framed a unanimous report, upon which the House afterwards acted. But some hon. gentlemen have said that there was a trick played in connection with the presentation of the report. Sir, no trick was played. The Committee on Privileges and Elections met, they agreed upon the report, and it was unanimously agreed by that committee, in the presence and with the assent of the hon. First Minister, who was a member of the committee and the leader of the Opposition, that the Chairman should be requested to defer the presentation of the report

to the latest hour compatible with its presentation during the Session. It was thought to be a convenient course, a proper and manly course, not to create the disturbance and difficulty that would result from the vacation of the Speaker's seat a few days before the close of the Session. The suggestion was made on these grounds, I believe by myself, it was unanimously agreed to, and it was so done. The result was that the report was not presented until the last day of the Session, it being understood that it would be, as it was, acted upon immediately after the close of the Session ; and I think it was a course worthy of the hon. First Minister in his position, worthy of the members of the Opposition and conformable to the dignity and the amenities of the House ; and a course which a faithful though sometimes recalcitrant follower of the hon. First Minister ought not now to condemn him for having assented to. Now, I wish to know what we should refer, and why we should refer, and in order to decide this, we must brush aside some questions which in the course of this debate have been raised as being more or less in issue. I say that no case is made or pretended of breach of the Independence of Parliament Act ; and that if there were, the penalties which are provided by that Act have been exhausted and apply no longer. Now, I do not state this because I conceive there is the slightest difference in principle, upon the question of a reference to the committee, whether the point arises upon the statute or whether it arises upon the unwritten law, any more than my hon. friend beside me (Mr. Laurier) did or could have supposed such a possibility. My hon. friend only pointed out that there might be a question as to what the effect of a statute was. The question is whether there is fit matter to be referred to a committee ; and, whether that matter arises by virtue of alleged breach of a statute, or by virtue of an alleged breach of a rule, or by virtue of an alleged violation of those obligations, or those unwritten laws which guard the honor of Parliament, the same principle applies to all. But I say there is here no charge that the Independence of Parliament Act has been broken. Again, there is no case here made of a breach of any laws regulating the disposition of timber limits. Again, and this is not an unimportant point, in regard to some of the observations made by the hon. member for Lincoln, there is no case made here, and no charge of any fraud having been committed upon Mr. Sands, the purchaser of these limits, and, therefore, that is not a matter suggested as enquirable into here. Sands may have been defrauded, and he may not ; he may have been defrauded by the hon. member for Lincoln, or by Mr. Adams, or by both, or by neither of them ; it is a matter with which we have nothing to do on the issues before us. And, lastly, and most important for our consideration, there is no case whatever made of wrong of any kind, save whatever wrong is alleged to be apparent in the hon. member's own letters printed in the Votes, and in his own statements made in this House. Whatever is alleged against him, and whatever proof is suggested as sustaining the allegations, are based upon his own written and oral statements both before us. There is the whole of it. Now, to the benefit of these limitations the hon. member for Lincoln is fully entitled ; but by these limitations and their consequences the hon. member is also bound. Now, as well as I can gather, the hon. member in his explanation has alleged that the recitals of the extracts from these letters in the motion of the hon. member for South Oxford are unfair and misleading. Though he did not point out the details in respect of which he made that allegation, still he made it in the general. He has also alleged that there are other papers which he can produce ; though so far as I am able to judge, these relate wholly or mostly to the irrelevant question of Sands. But these other papers, whatever their nature or effect, he has not further particularised, nor has he produced them. Now, no man can deny that the hon. member for Lincoln has had the amplest opportunity of presenting his defence, both in proof and in argument. He has on two occasions at least produced such materials as he thought proper ; he has on two or three occasions made statements here ; and I am not saying that it might be held to be unjust to assume that no further valid evidence or defence was available, or even to decide that no further opportunity should be given. But though I contest the strict justice of that view, for my own part I do not choose to act on it. I agree, once again, in much that the hon. President of the Council has said in that regard. I think it extremely important, in the interest of justice and fair play, in the interest of this House at large, that the judgment which is finally to be awarded in this matter, whatever it may be, should be a judgment which cannot be impugned upon any pretence or suggestion that there was any fair opportunity refused to the hon. member to make a complete defence, or even to offer such mitigating and exculpatory evidence as the hon. President of the Council referred to. The ground which I take is this: I think that the hon. member having, though quite mistakenly in my view, regretfully in my view, when he made his statement in this House, reserved in part his defence, ought to have even now the opportunity of completing that statement and defence. I think the House is entitled and ought to say to him this: "While we do not see, upon the material now before us, including your own statements, any ground for referring the case to a committee, we are prepared to receive your further statement, your further argument, your further papers, if any you have, and to deal with this case as may then seem just." I think, then, that the hon. member ought to have the opportunity of saying, in his place here, what more he chooses, and of laying on the Table here what further papers he deems proper. And, I think that the adoption of this course would enable us to dispose in a proper way of the amendment now in your hands, and at the same time to do the fullest justice to the hon. member for Lincoln. It is the course which I venture to submit for the consideration of the House. The hon. the President of the Council has not himself been able to point out what there can be to refer to the committee. He was not called upon to do so. He is no doubt not possessed of such information as the hon. member for Lincoln may be able to submit for our judgment.

Mr. COLBY. I stated that I really did not know.

Mr. BLAKE. I say so. I have not the least doubt of that. None of us are aware of it. We gather its character from the statement of the hon. member himself, and his statement was that there were other papers which he could produce which

would give, as he said, a different complexion to those published. I am not going to weigh or analyse the papers published, with the view of saying whether that allegation is impossible or not of execution. I desire that the hon. member for Lincoln should have the opportunity of laying these papers on the Table, with all the comments and explanations he can give upon them. I desire, under the circumstances, that as he chose in part to reserve his defence—to give us some, but not as he says, all—he should not be placed in a worse position now than that if he had on that occasion given us all; but I do not perceive in that condition of affairs a cause for a reference to a committee. I perceive rather a reason for taking such a course as shall give the hon. gentleman the opportunity of presenting the remainder of his case on the floor of Parliament, and as shall thus leave us to dispose of this matter, with his case complete, according as the dignity and honor of this House and liberal justice to the hon. member for Lincoln require. The House will observe that I have studiously avoided expressing or implying one single opinion with reference to the merits of the transaction. It is impossible, of course, to avoid forming in one's own mind impressions upon papers such as we have before us, but I believe it to be our duty to hold our minds open up to the latest possible moment. I believe it to be our duty to enquire whether there be, as the hon. the President of the Council suggested, any explanation, any door of escape, anything which may alter the complexion which, to some minds, these letters and papers bear, and in that view, keeping, as well as I might, an open mind, I have scrupulously abstained from making any argument or expressing any opinion here as to the conclusions which are to be drawn from the papers in our hands. I repeat, and I close by the suggestion, that we ought to make arrangements for this case being completed in the manner in which it was begun, by the hon. member on the floor, and that we should then proceed to give our judgment in the matter.

Ottawa:—Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECH OF HON. EDWARD BLAKE, M.P.,

ON THE

GRAND TRUNK RAILWAY BILL.

FRIDAY, 11TH APRIL, 1890.

Mr. BLAKE. I think, in so far as my memory serves me, the extract which the hon. gentleman read, correctly states the effect of the law, and there is on the Statute-book a provision, inserted during a somewhat animated discussion which took place here, which would prevent amalgamation or working arrangements between the two great corporations of which the hon. member for Northumberland (Mr. Mitchell) has spoken. It is not, therefore, with respect to that difficulty that anything I have to say is brought forward. If that question were raised, I agree with the hon. member that it would be a vital question, a question which certainly could not be disposed of, under any proper reading of our rules, without a proper notice and without a reference back to the Committee. But a suggestion which the hon. member for Northumberland (Mr. Mitchell) has made, may, perhaps, solve the immediate difficulty, and enable us to deal with this measure upon what I conceive to be sound principles. I feel, perhaps, a special responsibility with respect to the present position of this Bill, because it happens that, upon looking over the earlier measure to which the hon. gentleman has alluded, it appeared to me, as then framed, objectionable. It seemed to me that the Parliament of Canada ought to lay down this rule: that it would not grant the power of amalgamation or working arrangements without having passed once, at all events, upon the proposition that it was expedient that such powers should be given. And, therefore, I suggested to those who were promoting the other Bill, that they should alter the Bill and limit their powers to cases in which the Parliament of Canada had once spoken affirmatively. I said, if Parliament has given to any railway company either a general authority to make working arrangements with any other company, or a special authority to make working arrangements with a particular railway company, then there is no objection to Parliament saying to another company: You can make working arrangements with any company so authorised; because Parliament in that case has already said there is no objection to such an amalgamation being effected. And it was upon that suggestion as to the expediency, on general principles, of retaining the power to the Parliament of Canada, to that extent, that the other Bill was altered, with, I believe, the unanimous consent of the Railway Committee. It seems to me the principle is as good and sound to-day, and with respect to this Bill, as it was with respect to the other Bill, and, therefore, I object, upon the same grounds on which I objected to the other Bill comprehending that wide authority, to this Bill comprehending as wide an authority as the hon. gentleman proposes. If there be, as the hon. member for Northumberland (Mr. Mitchell) has said, some specific case, which it is wanted to meet in a hurry this Session, for the amalgation or the making of working arrangements with some particular railway, we can still preserve the general principle, which I deem to be of importance, by allowing the general clause to be retained in its revised form, and by inserting a clause giving special authority to deal with the specified company, as the hon. gentleman has suggested, and thus we shall have met the case fully.

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House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

DEBATE

ON THE

POWER OF DISALLOWANCE.

TUESDAY, 29TH APRIL, 1890.

Mr. BLAKE. Pursuant to the notice which I gave some days ago, I rise to move in amendment:

To leave out all the words after "That" and insert the following:—"it is expedient to provide means whereby, on solemn occasions touching the exercise of the power of disallowance, or of the appellate power as to educational legislation, important questions of law or fact may be referred by the Executive to a high judicial tribunal for hearing and consideration, in such mode that the authorities and parties interested may be represented and that a reasoned opinion may be obtained for the information of the Executive."

At this stage of the Session I shall endeavor to comprise within the briefest possible limits those observations which I have to make in support of this proposition. I would say that recent, current, and imminent events have combined to convince me that it is important in the public interest that this motion should receive attention during this Session, else I should not have propounded it at this time. I propound it, as its language implies, and as, I think, you will observe before I sit down, in no hostile spirit towards the Administration; and its form is one which is not necessarily hostile, but which I have adopted on this occasion, not with any view of precluding an amendment, but because it is the only available method by which I can now hope to bring the matter under your consideration at all. Now, Sir, the federal constitution of Canada specially demands our attention to the legality of its legislative Acts. We have within our borders seven Provincial Legislatures, one Territorial Assembly and this Parliament, all and each with limited powers, all and each hedged in by limitations—with reference to the Provincial Legislatures and the Parliament, as between these two, and with reference to both the Provincial Legislatures and the Parliament, as between them both and the reserved powers of the Imperial Parliament—with limited powers, I say, any excess, or attempted excess of which in legislation is absolutely void. Our several constitutions are partly unwritten and undefined; they are also largely, perhaps, I may say, mainly, written and defined. And so it has happened that we have fallen into the use of the word constitutional in two very different senses: one, the only sense in which it is used in the mother country, whose constitution, being the growth of customs, precedents, practices and principles, and not being a written instrument, unalterable by the Parliament, Parliament being itself supreme—whose constitution, I say, is a thing elastic, plastic, changing, of the spirit, not of the letter; and so, when we speak, in the English sense, of an Act being constitutional or unconstitutional, we refer to its spirit, we refer to the question whether it is in accord with, or in violation of, the spirit of the constitution. But we have another sense in which we use the word in a sense peculiar to ourselves, or at any rate, distinct from its use in the mother country; we use it also to express an Act in excess of our legal powers, In the first class of cases, however obnoxious may be the Act that we condemn, it is nevertheless indisputably valid; in the second class of cases, however useful we may consider the Act we are discussing, it is null and void. The first class of cases depends on political considerations entirely outside the judicial domain, which is quite unfitted for their disposition; the second class depends upon legal considerations fitted for the judicial domain, and which ought, as far as may be, to be kept within it. Yet, Sir, no Legislature or Executive can, any more than any private individual, act at all without considering, and in a sense deciding for itself, the legality of its acts, and so in some sort, entering upon the judicial department. But not upon the domain of the judicial power; because our opinion that our acts are valid does not make them so; their validity depends upon the decision of the judicial authority, and upon that alone. Now, Sir, the general notion that the executive, the legislative and the judicial departments of government ought to be, so far as practicable, separate and apart, is one held by many of the most eminent constitutionalists as a fundamental principle. There can be no doubt that the absolute union of these departments is neither more nor less than absolute despotism. Unite in one hand, I care not whether it be the hand of an auto-

crat or the hand of a Council, the power of legislation, the power of adjudication, and the power of administration, and you make the most absolute despot that is conceivable. The separation, therefore, of these departments, the degree to which, without over-weakening or over-complicating the action of the machine, you can separate them, marks the degree to which, in this aspect of a constitutional system, you have attained perfection. I do not say that they can be absolutely and always separated. It is not so. Now, my object is to apply these general views, which I have briefly stated, to one important class of public transactions so far as may be found practicable; and that class of public transactions is divided, as you will see by my notice, into two subject-matters, in which the Dominion Executive, itself a political body, has a constitutional duty, the discharge of which involves the interpretation of statutes, and thus the solution of strictly legal questions; and in which also this Parliament, which has the right to advise, to condemn or to approve, has, or may have, duties of its own. I by no means propose to withdraw from the Executive its duty; my object is to aid it in the efficient execution of its duty. I make no attempt at this time to discuss the propriety of these constitutional provisions, or, in any general sense, the executive, the parliamentary or the party action which has tended more or less, to elucidate the generally accepted or the generally opposing views upon these subjects. My only wish is, without discussing how far these provisions are wise, taking them as they are, to facilitate the better working of them. The first of the two classes to which I allude is that in which the proposal comes before the Executive, to disallow an Act of a Provincial Legislature on the ground that that Act is *ultra vires*. If it be so, the Act is void; and I think I may say, that it is now generally agreed that void Acts should not be disallowed, but should be left to the action of the courts. It is, nevertheless, and I think with sound reason, contended, that circumstances of great general inconvenience or prejudice from a Dominion standpoint, and involving difficulty, delay, or the impossibility of a resort to law, may justify the policy of disallowance, even in cases in which the Act is *ultra vires*, and therefore void. In that view there would arise two questions, the question of policy, and the question of legality; because the question of legality leaves untouched the question of policy, which is, "even if the Act be void, shall it be disallowed or no?" The other class to which my motion alludes, is that of the Educational appeal, which arises under section 93 of the Constitutional Act, and under the analogous provision of the Manitoba Constitutional Act. Under these clauses a limited power to make Educational laws is granted to a Province, provided, amongst other things, that nothing therein contained shall prejudicially affect any right, or privilege, with respect to denominational schools which any of the Provinces had by law, or, in the case of Manitoba, by practice, at the Union. There is another class of restrictions, which I do not in terms touch here, but to which, in cases in which an appeal is raised upon them, my observations would equally apply. This limitation upon the power of a Province is made more effectual by a special provision, giving an appeal to the Dominion Executive from any Act or decision of the Provincial Legislature or Authorities affecting any right or privilege of the Protestant or Roman Catholic minority in relation to education; and whereby also, in case of the non-execution by the Province of the decision of the Executive, this Parliament may make remedial laws for the purpose of effectuating that decision. Those members who have long been here will well remember the New Brunswick school case, which was agitated for many years; in the course of which agitation I have hoped that some political aspects of that and of analogous questions were finally settled —settled, at all events, for the bulk of the party with which I act, and for the humble individual who is now addressing you. I regard it as settled, for myself at any rate, first of all, that, as a question of policy, there shall be no disallowance of Educational legislation, for the mere reason that, in the opinion of this Parliament, some other or different policy than that which the Province has thought fit to adopt would be a better policy. I hold it to be settled, in the second place, that no Address to the Crown shall be passed by this Parliament asking for a change of the Constitutional Act as affecting any Province, at any rate against the will of that Province, in this particular. And I hold it to be settled, thirdly; indeed it follows obviously from these two propositions, that the only questions which can practically arise within our domain are such as may be raised, by way of appeal, under section 93 and the analogous section of the Manitoba Act. The events which took place in connection with the New Brunswick school case afford, to myself at all events, a strong proof of the expediency of what I now propose. Let me enforce the three propositions which I have stated by a brief reference to the votes upon that occasion. In part those votes were taken when hon. gentlemen opposite were in power, in part they were taken when the Liberal party were in power. The first stage in the transaction occurred when hon. gentlemen opposite were in power; and in May, 1872, I voted with the majority of the House against a motion to regret that the New Brunswick school law had not been disallowed by the Government to which I was opposed; although I was, and expressed myself, of the opinion that some of the changes which had been made by that Provincial law were harsh changes. At the same time, I seconded a motion, which fortunately also prevailed:

"That this House deems it expedient that the opinion of the law officers in England, and if possible of the Judicial Committee of the Privy Council, should be obtained as to the right of the New Brunswick Legislature to make such changes in the school law as deprived Roman Catholics of the privileges which they enjoyed at the Union, in respect of religious education in the common schools, with a view of ascertaining whether the case comes within the terms of sub-section 4 of section 93 of the British North America Act of 1867, which authorised the Parliament of Canada to enact remedial laws for the due execution of the provisions respecting education in the said Act."

At that time, I need hardly remind the House, there was no Supreme Court in existence. The advice of the law officers was obtained, and it was, as it had been on prior, and as I am afraid, if I may judge by a notice on the paper, it has been on subsequent occasions, not perhaps very satisfying; and there was no mode of approach apparently to the Judicial Committee. In the end we had to get up a suit in some way or other, about some assessment or other, in order to

obtain, by a clumsy and expensive process, a judicial decision, not reached for some years afterwards, of the question involved and stated in the motion which I have just read. The second stage of those proceedings arose in 1875, when the present Minister of Inland Revenue (Mr. Costigan), whom I regret not to see here, being then in opposition, gave notice of a motion for an Address to the Crown praying for an alteration in the Constitutional Act as it affected the Province of New Brunswick in this regard. Upon that notice being given, I put upon the Votes and Proceedings notice of an amendment, which I take leave to read as expressing the views I then entertained, and still entertain on that aspect of the question. This was my notice:

"That prior to the Union, New Brunswick had sole and exclusive control over its educational system.

"That under the Union Act, as construed by the Judicial Committee of the Privy Council, such control was reserved to, and has ever since been retained by New Brunswick.

"That New Brunswick has not signified any willingness that the Union Act should be amended in this particular.

"That any encroachment made against the will of New Brunswick, on the powers so reserved, would, by diminishing the security now enjoyed by each Province for the maintenance of its provincial rights, tend to subvert the constitution.

"That whatever may be the opinions of members of this House on the educational policy of any Province, this House deems it inexpedient to address the Crown in favor of any amendment which would, against the will of the Province, encroach on the powers reserved to it in respect to education."

When the motion of the present Minister of Inland Revenue ultimately came on, my hon. friend from the East Riding of York (Mr. Mackenzie), then First Minister, moved the following amendment:—

"That in the opinion of this House, legislation by the Parliament of the United Kingdom, encroaching on any powers reserved to any one of the Provinces by the British North America Act, 1867, would be an infraction of the Provincial Constitution, and that it would be inexpedient and fraught with danger to the autonomy of each of the Provinces, for this House to invite such legislation."

This amendment, for which I voted, was carried, with the addition of an amendment inviting the friendly intervention of the Imperial authorities with the Government of New Brunswick for some change by their own voluntary action; the opinion of the House continuing to be as it had been in the previous Parliament, that the legislation which was the subject of agitation was in some particulars harsh, and might better have been otherwise; but that this was a question for the Province freely to decide. I have, I think, proved my case. Now, Sir, in the exercise of this power of disallowance by the Government, political questions will, or at any rate may, probably, always arise. Questions of policy may present themselves, that is questions of expediency, of convenience, of the public interest, of the spirit of the constitution or of the form of legislation. All these are clearly, exclusively for the executive and legislative, that is for the political departments of the Government. But it is equally clear, that when in order to determine your course you must find whether a particular act is *ultra* or *intra vires*, you are discharging a legal and a judicial function. What do you do? You proceed to interpret the Constitutional Act, and to declare its meaning; you proceed to interpret the Provincial Act under consideration and to declare its meaning; you proceed to compare the two statutes so interpreted and declared; and you proceed, finally, to conclude whether or not the law conflicts with, or transcends the powers which are conferred upon the Legislature which passed it. Nothing that can be conceived partakes more exclusively of the character of a legal and judicial operation than what I have just now described. Again, when you act on the appellate Educational clauses; as, for example, in the case of Manitoba, the very case which is now in a sense pending, as to whether recent legislation be within the limits of the rights of the Provincial Legislature, and whether any relief is due under the appellate clause to those who claim it, you have a legal question, or rather, in this case, a mixed question of law and of fact; which circumstance it was that induced me to insert the word "fact" in my motion, conscious as I was that it was only on the rarest occasions that any references of that description would be necessary. Yet it seemed to me that, in this particular instance, I was constrained to provide for an emergency which may arise. Now, what is the process to be gone through in order to reach a conclusion? The first involves that very question of fact, or rather a mixed question of law and fact. You have to find whether any class of the population had by law or practice, at the time of the Union, any, and, if so, what right or privilege with respect to denominational schools. Secondly, if so, you have to find whether that right or privilege has been affected, and how it has been affected, by the legislation complained of; and thirdly, if so, you have to find what legislative action is required to redress the wrong. The first two questions at any rate are legal and not at all political. Now, I aver that in the decision of all legal questions, it is important that the political executive should not, more than can be avoided, arrogate to itself judicial powers; and that when, in the discharge of its political duties, it is called upon to deal with legal questions, it ought have the power in cases of solemnity and importance, where it may be thought expedient so to do, to call in aid the judicial department in order to arrive at a correct solution. The decision that an Act is *ultra vires*, and its consequent disallowance by the Executive are incidents peculiar in practice to ourselves. They do not exist in the great example of the Republic to the south of us. It is a most delicate function, and its exercise involves most serious ulterior consequences. The question is by the decision of the Executive finally decided, and the Act is obliterated and annulled. The question whether it was or was not valid is so removed from judicial cognisance for ever. And thus by repeated exercises of the power of disallowance, in respect to repeated provincial legislation, the Province may practically be deprived of that which all the time may be a real right;—a right claimed, which may be a right justly claimed. Thus, one of two limited Governments, of which it may be said in a general sense that the sphere of the jurisdiction of the one is limited by the sphere of the jurisdiction of the other;—one of these two limited Governments, may practically decide the extent of the limits, of what in a sense, is its rival Government. That is a very delicate position. It is a little like the position which a great many very good and wise persons contemplate with grave alarm, as to the pretensions of one church to decide what are the limits of power, as between Church and State,—to decide for itself these limits and thus, if that power be

admitted, to arrogate such rights as it pleases to itself. A decision under such circumstances is almost necessarily a suspected decision. There is a sense in which it is the decision of a party in his own cause. And therefore, for that reason only, if for no other, it should be fortified as far as possible by neutral, dignified and judicial aid. So, in the case of an Educational appeal, analogous results at any rate, may ensue; because here also the decision would bar judicial action, and produce coercive legislation, imposing that decision on the Province; and would thus, according to the opinion of the Dominion Executive and Parliament, and to that alone, end the question. Now, do I say that in all cases the Executive should refer? I do not say so; my motion does not say so; my opinion is not so. I have referred—using language for this purpose which is recorded in the constitutions of some of the most respected States of the Republic—to solemn occasions and to important questions; but my motion is framed in this regard in what I conceive to be the spirit of the British and of our own constitution. It is elastic; it leaves a responsibility to the Executive to decide on the action to be taken in the particular case; it deals with the case as exceptional. My own opinion is, that whenever, in opposition to the continued view of a Provincial Executive and Legislature, it is contemplated by the Dominion Executive to disallow a Provincial Act because it is *ultra vires*, there ought to be a reference; and also that there ought to be a reference in certain cases where the condition of public opinion renders expedient a solution of legal problems, dissociated from those elements of passion and expediency which are, rightly or wrongly, too often attributed to the action of political bodies. And again, I for my part would recommend such a reference in all cases of Educational appeal—cases which necessarily evoke the feelings to which I have alluded, and to one of which, I am frank to say, my present motion is mainly due. Our present powers, Sir, are wholly inadequate for the effectual execution of the project in hand. There is no certainty—there is in ordinary cases rather an improbability—of our being able to reach the Judicial Committee; and as to all the three possible appeals or references, the Judicial Committee of the Privy Council, the Supreme Court, and the Imperial law officers, the machinery is extremely defective. There is no provision for the representation of the different interests; there is no provision for the ascertainment of facts; there is no provision for the reasoned opinion of the tribunal. Now, even where under special provisions on our own Statute-book, the first of these three requisites did exist—as in the case of the Liquor License Act, where we made a special provision for a reference to the Supreme Court, and for the appearance of and argument by opposing parties; as in the case of the Manitoba Railway crossings matter, where under a general law the Railway Committee of the Privy Council referred an important constitutional question to the Supreme Court, with provision, which the law allowed, for the argument by opposing parties—even in these cases, which come nearest to that degree of perfection to which I desire to attain, the results were not satisfactory; —why? Because the remaining requisite did not exist, in such form, at any rate, that it was used. There was no reasoned opinion; no grounds were stated by the tribunal for the conclusion which it shortly gave in reply to the Executive. The hon. First Minister will recollect expressing his own dissatisfaction with the opinion of the Supreme Court in the liquor license case, on that very ground, and he will remember that that circumstance involved a prolongation of the struggle and further proceedings; until in the end, the question was deemed settled by an argument and a reasoned judgment of the Judicial Committee which had earlier occurred; and by an unreasoned opinion of the same tribunal on appeal from the Supreme Court. I say, the lack of this last requisite deprived those proceedings of their chief value; they obliged us to resort to other methods; they left only as their result the disposition of an isolated case, with no general application, and of no permanent use. It was as if some Delphic oracle had spoken. We could not tell, beyond the limited disposition of the case in hand, what was actually meant, and not always even that. For my own part, I attach little comparative importance to judicial solutions, reached without argument, and announced without reasons. This, Sir, is only common sense. The experience of mankind has established, as the essential ingredients for the attainment of justice between man and man, the opposing arguments of the parties before a tribunal, and the reasoned judgment of that tribunal upon the arguments so addressed to it. The acutest minds are but too apt to err unless so aided in the formation of their judgment, and so checked in the announcement of it. Which of us, I ask, would submit, in any important case of his own, to such a method of reaching a conclusion? And how can we expect that the community at large will submit to such a method in the public cause? Let the opposing views be stated, presented and sifted in public, and in the presence of the parties; so the best materials for consideration will be obtained. Let the conclusions themselves be reasoned out; so will the judgment itself be best tested and sifted, and its soundness ascertained. It may be said that these views, applicable to private causes and to the ordinary transactions of mankind, have less application or none to constitutional questions. I should deny, on reason, any such view; and I refer, in the contrary sense, to a quotation from Bryce's recent book upon the American Constitution, which shows, what one would have expected, that if there be a distinction, it is in favor of the application of these principles to this class of cases. Speaking of the illustrious exponent of the United States constitution, Chief Justice Marshall, that author says:

"Chief Justice Marshall's work of building up and working out the constitution was accomplished not so much by the decisions he gave as by the judgments in which he expounded the principles of these decisions, judgments which, for their philosophical breadth, the luminous exactness of their reasoning, and the fine political sense which pervades them, have never been surpassed and rarely equalled by the most famous jurists of modern Europe or of ancient Rome. Marshall did not forget the duty of a judge to decide nothing more than the suit before him requires, but he was wont to set for the grounds of his decision in such a way as to show how they would fail to be applied in cases not yet arisen."

A noble function, which I wish we could see applied in Canada! Now, for want of this, as I have said, our occasional efforts to obtain light have resulted less satisfactorily than I could wish —sometimes in clumsy, slow, expensive, and but slightly fruitful proceedings; sometimes in absolute

failure ; and always with loss, for the want of the adequate provision to which I invite the attention of the House. I, myself, have objected on former occasions to the reference of unargued, abstract questions for an unreasoned opinion. I think it is objectionable. It is better than nothing in some cases ; in some cases, I would adopt it if the only resort. I have advised it before, and would advise it again. But, as a rule, I still adhere to that view ; and because I adhere to it, I propose a more excellent way. But though some theoretical objections may still remain to the guarded plan which I propose, the main objections are most unquestionably removed by the adoption of these precautions. The balance of advantage is decidedly one way, and that is all that in human affairs we can expect to attain. Now, Sir, our present law provides a power to the Executive to make such a reference ; and such a reference may, at this day, be made without any of these precautions, while it cannot be made with them. My proposal, therefore, involves a check and a limitation, as well as an added power. With reference to the theoretical objections to which I have alluded, and which have been pressed very much in the United States—where, however, there is this cardinal difference, that they are not at all called upon to deal with this question of disallowance or of appeal—with reference to the theoretical objections there raised on the question as there presented, Mr. Bryce, in the work to which I have alluded, points out the corresponding disadvantages, even there, of the absence of some such provisions. They are :

"To settle at once and forever a disputed point of constitutional law, would often be a gain both to private citizens and to the organs of the Government. Under the present system, there is no certainty when, if ever, such a point will be settled. Nobody may care to incur the expense and trouble of taking it before the court ; and a suit which raises it may be compromised or dropped. When such a question, after, perhaps, the lapse of years, comes before the Supreme Court and is determined, the determination may be different from what the legal profession has expected, may alter that which has been believed to be the law, may shake or overthrow private interests based on views now declared to be erroneous."

But, Sir, besides the great positive gain of obtaining the best guidance, there are other, and in my opinion, not unimportant gains besides. Ours is a popular government ; and when burning questions arise inflaming the public mind, when agitation is rife as to the political action of the Executive or the Legislature—which action is to be based on legal questions, obviously beyond the grasp of the people at large ;—when the people are on such questions divided by cries of creed and race ; then I maintain that a great public good is attainable by the submission of such legal questions to legal tribunals, with all the customary securities for a sound judgment ; and whose decisions—passionless and dignified, accepted by each of us as binding in our own affairs, involving fortune, freedom, honor, life itself—are most likely to be accepted by us all in questions of public concern. The great Bill for Local Government in Ireland, introduced by Mr. Gladstone in 1886, and which, despite its defects—and I am amongst those who have always thought they were very serious—is, considering the conditions of its preparation, one of the most wonderful productions of its kind, made provision for the establishment of this principle of reference in this class of cases. It arranged for a reference, either by the Lord Lieutenant of Ireland at his option, or the English Secretary of State at his, to the Judicial Committee of the Privy Council of all questions of *ultra vires* arising on legislative Bills and Acts of the Irish Legislature, and it provided that the decision should be final. The Legislature of Ontario has passed two general statutes, providing, in the one case, for the institution of declaratory actions—actions for judicial declarations upon such subjects ; and in the other, for a reference to the courts of such questions ; and in each case with those securities which I am anxious we should provide for ourselves. The hon. the Minister of Justice is at this moment availing himself of the earlier of those Acts, for the purpose of testing before the law courts, a very important constitutional question as to the extent of the Executive power. Several States of the Union have, in their constitutions, taken the power of reference, without these securities. We ourselves, as I have pointed out, have taken the power generally, without these securities. We took it specially in the Liquor License Act, with a portion of these securities ; we took it generally in the railway cases, with a portion of these securities. Thus, it is beyond our power to urge any longer the theoretical objection ; while by the proposal which I advance, we can minimise those objections, and at the same time advance the practical utility of the procedure. If you grant me a definite issue, a full argument, and a reasoned judgment, in my view the objections almost vanish, while the advantages enormously increase. But, my proposal is by no means radical or revolutionary, compulsory or general. It is but an enabling proposition ; it but empowers the Executive to obtain by a procedure replete with the essential requisites for the production of a sound opinion—the views on legal questions of legal authorities, leaving to the Executive, so aided, the responsibility of final action. I have an absolute confidence that, if my proposal should be declined, the first persons to regret that decision will be hon. gentlemen opposite. My opinion is, that this is a proposal eminently helpful to the Executive of the country at this time ; but it is eminently helpful to them, because it is eminently helpful to the good government of this country ; and it is in this spirit that I move the amendment which I now submit to the judgment of the House.

Sir JOHN A. MACDONALD. In the first place, I accept in the fullest sense, the assurance of my hon. friend that his motion has not been laid before the House in any spirit of hostility to the Administration of the day. On the contrary, I am grateful to the hon. gentleman for having brought forward this subject in the very careful resolution he has prepared, and still more, for the able speech in which he has enforced the various paragraphs and the main object of that resolution. It is gratifying to know that we have now in the House of Commons of Canada an hon. gentleman who is able to give his time and talents to bringing before the representatives of the people important questions of this kind. When I first read the hon. gentleman's resolution hastily, it occurred to me, as, I dare say, it occurred to many hon. gentlemen who hear me now, that it was an advance towards the American system, and proposed to transfer the responsibility of the Ministry of the

day to a judicial tribunal; but on scanning the resolution in its carefully prepared terms, that impression was dissipated, and I saw that the principal object of the resolution, as I read it, is that the questions submitted by the Executive to the judicial tribunal should be enforced, sustained and presented to Parliament, to the public and to the Crown by the fact of this legal decision having been given. As the hon. gentleman has stated, when a question is submitted by the Crown to the courts, the simple answer "yes" or "no" is most unsatisfactory. It is a *pronunciamento* of the court without giving any reason for the decision on the decision which has been given. The proposition in this resolution that the courts could be required by the Executive to hear counsel, to take evidence in questions where facts form a portion of the subject to be decided, the fact that it is provided that the courts can and must give reasons for their answer, is sufficient, in my opinion, whether there was or was not any other excellence in the resolution to warrant this House to adopt it. I am strongly of the opinion that this resolution should meet with the favorable consideration of the House. The only objection really that I see to it is the fear that, the power being so emphatically given to the Crown to insist upon reasons being given the Parliament of Canada, and especially the House of Commons, may be continually pressed and urged to refer Bills, whether passed by the Dominion Parliament or the Provincial Legislatures, to the judicial tribunal. We may have very unimportant questions which we would be urged by certain interests to refer to the court. However, the Government of the day must have force enough to resist any such pressure. That is an evil which is comparatively unimportant when you consider the great advantages of the adoption of this resolution, the principle of it being that power is to be given to the Executive—an enabling power, as the hon. gentleman has truly said—to submit any important question to the court, and specially on these two points—the question of disallowance, and the question which may—and I am afraid will—assume large proportions—the educational question. Whenever the question of disallowance is raised on important matters and the reasons alleged for disallowance are that the Act itself was *ultra vires*, that is, that it was beyond the competence of the Legislature which passed it, I coincide with my hon. friend in believing that the Crown should have the power of submitting such a question to the courts, and give the opportunity to the authority — be it legislative or executive, which has passed the statute, to appear before such tribunals, and that all parties interested, or that the court should think were interested, should have the opportunity of being heard. Of course my hon. friend (Mr. Blake), in his resolution, has guarded against the supposition that such a decision is binding on the Executive. It is expressly stated—and that is one of the instances which shows that this resolution has been most carefully prepared—that such a decision is only for the information of the Government. The Executive is not relieved from any responsibility because of any answer being given by the tribunal. If the Executive were to be relieved of any such responsibility, I should consider that a fatal blot in the proposition of my hon. friend. I believe in responsible government. I believe in the responsibility of the Executive. But the answer of the tribunal will be simply for the information of the Government. The Government may dissent from that decision, and it may be their duty to do so if they differ from the conclusion to which the court has come. There is another point in regard to which the court must be guarded in the measure which will be introduced—not this Session but I hope next Session—based on this resolution, and that is, that the answer, whatever it may be, should be considered in the nature of a judgment so far as to allow of an appeal to the Judicial Committee of the Privy Council. With these remarks, I will only say further, that I thank the hon. gentleman for having brought this resolution before the House, as I concur with it generally, though holding the right with a free hand to frame the measure which will have to be brought down to Parliament in accordance with it. I do not think there can be any doubt as to the meaning of the motion of my hon. friend. I think it is so explicit in its terms that no questions can arise as to what its meaning is, and, if there were any doubts as to its meaning—there were none in my own mind—those doubts would be removed by the lucid speech of my hon. friend. That speech is of record in *Hansard* and will throw a clear light on the objects and the aims of my hon. friend (Mr. Blake) in introducing the resolution.

Amendment of Mr. Blake agreed to.

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House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECH OF HON. EDWARD BLAKE, M.P.,

ON THE

ADJOURNMENT & TARIFF DEBATE.

TUESDAY, 1st APRIL, 1890.

Mr. BLAKE. After the statement of the hon. member for South Oxford (Sir Richard Cartwright), that he does not think the principal debate can close until Thursday, I think the question is settled. I agree with the First Minister that the present debate should be disposed of before the adjournment, and as the hon. member for South Oxford (Sir Richard Cartwright) is of opinion, from what he has learned, that the debate cannot be closed on Wednesday, I do not see how an adjournment can take place until Thursday. Even if it were possible, I would, as a private member, very strongly object to the course which the First Minister suggests, namely, that we should so expedite matters as to pass the whole tariff of this country through all the preliminary stages, introduce the Bill, pass it, give the second reading and get it into committee. These various stages are for a purpose; they are for the purpose of avoiding too rapid action, for the purpose of giving time for consideration, and for the purpose of giving an opportunity for representations being made from various persons all over this broad country with reference to the proposed changes, in order that no mistakes may be made. What the hon. gentleman proposes is that we shall proceed, first of all, and forthwith, to almost the last stage. Now, Sir, the regulations of the House give us a Committee of the Whole upon these resolutions, which, for the moment, we waive in order to afford the hon. gentleman the convenience of putting them in force, provisionally, at the Customs houses at once. That opportunity we should have at this stage, of a full and free discussion, and on the concurrence and on the stages of the Bill we shall have opportunities for presenting our views formally by motion. It is likely, and I hope it will be the case, that there will be upon the Bill itself very little discussion, but there may be discussion, and the opportunity should be afforded for it. Certain considerations may be brought to our attention before the later stage, and in the interval, which may make it very important that we should bring them forward. It is to be remembered that even the Government itself, when it frames these tariff changes, acts under very considerable difficulty. It is utterly impossible for the Government to obtain at first that thorough and full advice on these subjects which it is important that it should obtain. It cannot indicate its intentions on these matters beforehand, without the grossest frauds being perpetrated at the Customs houses, or without its intentions being made use of for private purposes. Therefore, those who are framing the tariff require a certain interval after their proposition is elaborated, just as much as the House and the country does, to consider the various bearings of this proposition. I feel now, as I have always felt that it would be a monstrous thing to impute serious incapacity or neglect to a Finance Minister, who, bringing down propositions for a change under these difficulties, should say frankly at a subsequent date different views were presented to me after I brought down those resolutions which do modify my opinion upon them. My view is, that the difficulties of the case necessarily require that that degree of elasticity should be readily accorded, without comment or observation, to the Finance Minister, so that he, like the rest of us, may have an opportunity, in a country which stretches 3,000 miles across, to get at public opinion upon this subject. Therefore, without the slightest desire to protract the Session, I must protest against what, I think, are the evil and dangerous consequences of hurrying through all the preliminary stages, and at a very early date getting towards the final stages, in a matter which it really does require time and consideration and general information to properly mature.

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House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON

THE BALLOT COMMITTEE, &c.

THURSDAY, 20TH MARCH, 1890.

Mr. BLAKE. I confess I entirely shared the view of my hon. friend beside me (Mr. Laurier), when I saw the composition of this Committee as proposed. It is all very well to say that we are all equally interested, and all want to see fair play; but one thing one always has to consider about a machine is the character of the man who works it; and when you find that the Government of the country has taken into its hands the appointment of the returning officers, who in turn appoint the deputy returning officers, the poll clerks, and all the other officers who are to have the control and the handling of an election, then it is extremely important that the machinery placed in their hands should not be so pliable, or so excessively complicated, that it may give facilities for fraud still greater than those which pertain to the present system. I do not now recollect all the defects that were pointed out to me after the holding of the first election under the present system, but one I remember was, that the ballot papers were of such a thin and flimsy texture that it was impossible to mark them with the implements provided for that purpose without rendering it possible in the great majority of cases—and we know that in the great majority of cases a tolerably heavy hand is used—to perceive from the outside of the ballot paper, after it had been folded, the way in which the vote was marked. I agree with the view that, so long as you maintain the ballot system, it is of the last consequence, not merely that you should have security for secrecy, but that the mass of the voters should be persuaded that the ballot used is secret; because nothing is more common than to inform the voter that his vote can be found out, and that he must vote thus, and so, at the peril of his vote becoming known, notwithstanding the ballot. So I am informed. Therefore I agree that an arrangement under which, first of all, actual secrecy should be secured, and, secondly, under which that secrecy should be guaranteed, understandably by the mass of the voters and recognised and appreciated by them, would be very important. But, as I have said, we must take very great care that this machinery is not of such a pliable character as to be in danger of being put to the uses to which I have referred. The hon. gentleman is probably aware that, a few days ago, an investigation was held in the State of New York with reference to the election of a senator by a machine method which was supposed to work well, but which lent itself to most atrocious and widespread frauds. Therefore, it occurred to me that the suggestion made by the hon. gentleman, that this was a matter peculiar to the House itself, in which the Government did not wish to interfere—a suggestion which he sought to enforce by a committee composed of eight ministerial members and two Opposition members, with reference to machinery which was to be operated entirely by the hon. gentleman's friends—was a little "too thin." There was not a great deal of secrecy about that, whatever there might be in the new ballot. I am glad to know, therefore, that the hon. gentleman and his leader feel that the Committee cannot assume quite that complexion, and that a larger representation is due to this side of the House, considering that the character of the operators gives us of the Opposition the greatest interest in the character of the machinery to be adopted.

THE BANKING BILL.

Mr. BLAKE. I would suggest to the hon. gentleman that it would be convenient if he would provide us with a table, in plain and simple form, showing the details of the calculations of which he gave—what was very satisfactory in one way—the general result, but the details of which he did not give. I refer to the relation of the gross assets to the gross liabilities of the banks. It is quite clear that that teaches us nothing. You might as well say that you could decide as to the solvency of an individual by putting down on one side the assets and on the other the liabilities of all the members of his community, and striking a general balance. You would find that, although there might in the whole be a considerable margin of assets over liabilities, yet if you looked into the details there would be deficits in the case of some

and large amounts to the credit of others. For my own part, I am much more disposed to place reliance on that to which the hon. gentleman alluded in this regard, as the actual experience of banks which have gone under, and which, speaking generally, I think, quite justified his observations. I do not propose to say a word with reference to the details of the plan for the redemption of the notes, for the hon. gentleman has not entered into details, and there are some questions of detail which are rather important, but which, in the absence of details, it would be entirely premature to discuss. Nor do I intend to enter into the question of the working of the guarantee system, because that also requires very careful consideration as to details, and as to the exact liability which it would impose on the mass of the banks and as to the arrangement in case of a call. As to the audit system, I must say that I concur in every word the hon. member for South Oxford has uttered. I agree that if our present system of auditing is in any respect defective in theory, if it does not provide an adequate legislative recognition of the duty of the shareholders or the authorities to secure a proper audit, we ought to make such a legislative recognition. But with reference to most institutions which are engaged in enormous transactions in the lending of money, especially to those lending money on personal security, I hold that it is absolutely impossible for any auditor to make an audit which will indicate the real position of the bank. We know in our own experience that it is quite impossible. We in this House have had the most signal instances brought before us of banks which displayed the most flourishing statements, duly audited, before their shareholders, and in a very few weeks, or even days, it was found—without imputation of fraud on anyone—that those accounts were really nominal, and that enormous sums which were returned as good, turned out in the end to be of the most doubtful character. It is really of the greatest consequence, therefore, that we should not hold out to the public that we are giving them a security which we cannot give. I feel the importance of a proper audit, and I think that, if by any means we could, we should establish to some extent the independence of the auditor; and I will even go so far as to say that it would be worthy of the consideration of the House whether we could not provide some peculiar mark of our sense of the responsibility which any man assumes who undertakes the duty of auditing, as to the thoroughness and accuracy of the audit, by attaching to him a certain responsibility, which would of course involve a satisfactory remuneration. But, so long as the board of directors have the confidence of the shareholders, although the shareholders may, in name, appoint the auditor, after all we know that it is the board of directors who really name him, and, so long as that is the case, the auditors are very much exposed to the danger of doing their work perfunctorily, and of being guided, in matters which at all savor of questions of opinion, by the views of the manager of the institution and those who surround him. I was disappointed, I confess, to hear the hon. gentleman's statement with reference to the change he proposed to make as to the creation of smaller banks. As to the amount of capital to be paid in, if he is only going to ascertain, by the actual payment of cash that cash has been provided for the moment or for a brief space, to the amount of $250,000 instead of $200,000, that does not amount to very much, nor is it in the matter of the actuality of the payment extremely satisfactory. You cannot provide that without imposing a barrier, which, I do not suppose, you intend to impose. You cannot provide it by retaining for any long time the $250,000, because that is what the bank is built upon, and you must hand it back. It is evident, from our experience, that the system which has gone on will not, by any such arrangement as that, be stopped, though to some extent its operations may be restrained—the system, namely, of a bank, almost immediately after its formation, discounting the paper of its shareholders for an amount approximating to the amount of their subscriptions, and thus making the transaction a nominal one. Apart from this difficulty, which, I think, the hon. gentleman's proposition may to some limited extent prevent, I must say for myself that the experience of Ontario, so far as I can gather, with reference to the smaller banks, has not been favorable. I say so the more openly because I very well remember the discussion we had, a good many years ago, when the late Sir Francis Hincks was Finance Minister, when we had before us that whole question, and when a considerable effort was made to keep up the minimum capital for the establishment of banks. I was amongst those—in those days I was much younger than I am now—who moved by the unquestionable difficulties which the smaller centres of population then labored under, strenuously insisted upon a lower minimum. Those difficulties were due to a condition of things which has, to a considerable extent, disappeared. That condition was this: The number of the banks was much smaller, and the capital of the banks was also very much smaller than in these later days, and the indisposition of the banks to provide branches in the country was very much greater than it has since become; and it was a fact that very great difficulty was experienced, arising, in many instances, from the impossibility of obtaining local banking facilities in a good many thriving communities. It was thought necessary to give those facilities; but I must say that the experience of our Province has been that the smaller banks have not been on the whole a success. They have been, speaking generally, though with some exceptions, rather an element of danger than otherwise, and it has been proved that the present plethora of banking capital, and the widespread banking facilities, make it exceedingly difficult to conduct a profitable banking business with a bank, weak in the sense of its capital being small. Therefore, we ought to consider carefully, though not at all unfairly—I do not suggest any interference with any existing institutions—in the light of the experience of the past few years and of the existing condition of things as to the amount of banking capital which is available—the question whether it may not really be in the interest of the country, to discourage the establishment of banks with a minimum of capital so low as that which at present obtains. In expressing that change of opinion, I think it proper to assume the penitential stool, in view of my former attitude and of the position I now take on this question.

THE VALIQUETTE CASE.

Mr. BLAKE. With reference to the other return, regarding Valiquette, which the hon. gentleman brought down, I wish to call his attention to a letter which, it seems to me, indicates that the return ought to be supplemented. The following letter appears in the return from Antoine Valiquette to M. le Colonel Lamontagne :

"After having waited a long time, I see the necessity of having recourse to you with reference to a pension which was granted me by the Government on the decease of my son, Sergeant Prima Valiquette, who died in the North-West in the service of his country, on the 4th July, 1885. In the month of May that pension was granted to me, and a few days later I received a departmental letter from the office in Montreal, asking me to go there and draw the sum of $612.54. The same day Colonel Hughes came at my place, saying that he had been working in order to procure a pension for each child, and asked me for a power of attorney (which I gave him), authorising him to act in my name. Under this power of attorney he drew my money, and remitted to me one-half of the sum, that is $306, and some months afterwards, $130, and nothing more afterwards. I do not know when the next payment will come. Will you be good enough to conclude this affair, and tell me when the next payment will come, and the balance of the first payment. In doing so you would oblige a poor, sick old man who seeks protection."

That letter, put upon the Table of the House, leaves Colonel Hughes in a very painful position which has been altogether unexplained, and there is a later letter in a similar strain. I suppose there has been an enquiry.

Sir ADOLPHE CARON. I have ordered an enquiry.

Mr. BLAKE. It appears, s r, that Colonel Hughes had a power of attorney, at he received this amount and remitted the half of it, and held the remainder for some time, how long we know not. Will the hon. gentleman bring down a statement showing the regulations as to officers of the Government being allowed to act as attorneys. My impression is that there is a general regulation forbidding gentlemen in the public service to act as attorneys for public creditors. It is a wise regulation, as this case proves, if the statements made are correct.

SUPPLY—TRENT VALLEY CANAL.

Mr. BLAKE. I really think it is about time that this question of the canal should be settled. Certainly, as long ago as before the election of 1882, the hon. First Minister did make a promise in the town of Peterborough that the canal should be built. Certainly, for years after that time the Minister of Railways and Canals reiterated that promise, and time after time it was indicated that reports were being obtained as to what the cost would be ; and, if I remember aright, Mr. Rubidge was named as the officer from whom those reports were expected. Ultimately, an intimation was given, in the Railway Committee room, or somewhere else, to some large deputation which called on the Government to redeem its pledges—which had been very extensively used in a large number of the ridings bordering on the route of the projected canal—that the cost of the work was roughly estimated, I think, at the sum of $9,000,000. Another election came on, when I have no doubt further pressure was put upon the Government, and after the election of 1887, it seems that for the first time the Government took the step of appointing a commission. Their doing so at that time was, of course, an indication that they had neglected their duty up to that time. If they were going to make the building of the canal contingent on the commission giving a satisfactory statement of its cost, there should have been no such pledge as was given in 1882, and kept dangling before the eyes of the people for years afterwards. This commission has, I think, for nearly three years, had the matter in hand, and the hon. gentleman does not yet give an intimation when their report is expected. He says that somebody was ill and went to Europe, but that there is no hurry, because the work is going on all the time. But how do we know that it is work on the canal ? To do work of this kind piecemeal, if it is to be part of the great communication between the upper and the lower lakes, may be to do it in an extremely wasteful way. It may be that the work being done is adequate for the purpose of local communication, and yet it may be inadequate for the purpose of the large work if it ever comes to be accomplished. What I do say is that what was in a sense formally initiated as a pledged Government undertaking, as early as before the elections of 1882, ought not to be in the condition it is in to-day, nearly eight years later, namely, that for five or six years a step which the Government then declared to be essential, the formation of a commission, is delayed, and then the report of that commission is postponed for three or four years, and we do not know when it is to be obtained. I think the hon. gentleman ought to see this thing expedited ; the report should be obtained early and a decision reached ; and the people who are interested in this project, and who have been waiting for it and hanging on the hon. gentleman's words so many years, should be relieved in one way or another, by a determination either to proceed with the work or to abandon it.

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House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON

THE CENSUS.

WEDNESDAY, 26TH MARCH, 1890.

Mr. BLAKE. Quite a number of communications were sent me, after the last census, intimating that if such an understanding as the hon. gentleman has just told us existed at the head office, it did not reach the enumerators in many quarters. I am very glad to hear what the hon. gentleman has said, as he has taken a reasonable view of the matter; but the information I received from many parts of the country is that people who had been more than twenty years away, and were permanently away, were put on the enumerator's list. As the hon. member for Queen's County has said, if a father were asked whether he expected his boy, who had been away some fifteen or twenty years, never to come back, of course the father, in the hope of having his son pay him a visit, would say that certainly he expected him back. The son's name would be put down. That is the report I have received from many parts, and my hon. friend from Quebec (Mr. Langelier) confirms it with regard to that Province. Under these circumstances it would be very important for the hon. gentleman to prescribe a maximum of absence, not within which everybody should be counted—because a man who left yesterday may have gone permanently, and others may leave with the intention of remaining several months and coming back—but after which no man should be counted. It is impossible, from the information I have received, to come to any other conclusion than that, by reason of this system, a laxity, or discretion, was exercised which was grossly misleading. You can put no greater restraint upon the exuberant patriotism of some enumerators, who may be disposed to count a great many more than he ought as likely to come back, than to adopt a check system. I recommended such a system on the occasion of the last census, and I reiterate, with added emphasis, from past experience, the necessity of having the enumerator report every absentee he enters on his list. The mere statement of the total number of absent persons who are counted in the population of any particular district would be a great check. It would enable us to know to what extent the population of the country is supposed to be—not merely a transitory population, but a population living away from its fixed abode. This would involve no extra trouble, and would not require even another column. You need not mark those who are present at the time; but if you make some particular mark against those who are absent, and give us the figures in each district, that will be a security against laxity and against intentional over-stating, and will of itself form an important element in the formation of a conclusion as to how far the census is really correct.

Mr. BLAKE. The hon. member for Grey speaks, and I can understand his speaking, of a growing desire on the part of Canadians to be returned as belonging to the Canadian nationality, but I was surprised to hear the member for Renfrew (Mr. White) second the observation, that we should find this evidence in the census, because he with his sentiments must have been gratified to feel that we can find the true elements of Canadian nationality and unity in another part of the Statute-book, that is, in the Tariff Act. There it is that, according to his view, we find our common bond, or rather our most uncommon bonds. That is our national unity, and it is in that Act that we find the signs and symbols of our being, at the same time, one and a self-separated and a self-contained people.

Mr. BLAKE. The hon. Minister has stated that no instructions have as yet been issued with respect to the census. I have observed in the public journals a statement that sometime ago a circular was issued to medical men throughout the Dominion with respect to the approaching census, asking them to obtain and transmit to the Department certain information in regard to sanitary matters, hygiene, mortality, and so forth. Is that so? If it is so, will the hon. gentleman bring down the papers?

Mr. CARLING. I shall be glad to bring down the information. The circular was sent out by Mr. Johnson, statistician of the Department, in order to ascertain more correctly the returns as to the number of deaths and the causes of death.

Mr. BLAKE. Having to do with the census ?

Mr. CARLING. I suppose it is an enquiry having relation to the census. No steps have been taken in regard to the census ; but Mr. Johnson, statistician, has sent a circular to medical men, asking them to furnish him with such information as they possess with respect to deaths and causes of death.

Mr. BLAKE. I must say this : The census is a solemn operation which ought to be entered upon and executed as a whole, and the information sought, and enquiries made, with respect to the census, ought to be authorised and sanctioned with that object and aim. The hon. gentleman says that certain information has been asked by the statistician of the Department, and he supposes it will have some relation to the census. Whatever is going to be done to form a part of that compilation, which is to form our decennial census, ought to be done under Order in Council or departmental regulation, and with direct reference to the census, and under all the sanction and arrangement necessary for the procuring of that especially accurate information which belongs to such a national transaction.

Mr. BLAKE. There may and will be great difficulty in getting the correct amount of the quantity of butter and cheese manufactured in the different farm houses, but certainly it would be still more difficult to do what the hon. Minister has as just suggested, that is, to give the total for the parish or county, without getting the returns from the houses. You must get the details, in order that you may get the totals. My own impression is, that if it is proposed to obtain an account of the strictly domestic manufacture, it will be found to be very vague and far from approximate. I would suggest, while not dissenting from the notion that this should be attempted, that there should be made a separate account as to the condition of the creameries or factories, for by getting these returns, we will know exactly what is produced. The rest will be to a large extent guesswork.

OTTAWA :—Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON THE

BANKING BILL.

THURSDAY, 1st MAY, 1890.

SECURITY ON CHATTELS.

On section 66,

Mr. BLAKE. It does not appear to me that this is an advantageous addition. I do not think there is any use of inserting words which can very easily be evaded, and the practical effect of which will be to introduce a system of evasion. Under the present law, although a bank is not entitled to advance on the security of its stock, if it does advance upon other security, it obtains a certain statutory lien—at any rate, it has the right to say that the stock shall not be parted with until the debt is paid. The proposal now is to say that that right shall not accrue until the debt has become due. The practical result of that will be just this, that you will have a fictitious system of loaning; you will have a due bill or a sight draft or a demand note representing the loan, and a demand made at once, and a debt becoming due at once, but left lying until the time comes when it is understood tacitly that the borrower shall settle it. The clause can be overcome by that easy and simple process, so that all you are doing is to promote a fictitious set of transactions.

On section 74,

Mr. BLAKE. That was one of the questions. There was also a question raised as to whether it was a good warehouse receipt, because it was given by the owner himself.

Sir JOHN THOMPSON. The hon. gentleman said that his remarks would apply to all the warehouse receipt clauses. In view of the decision in the Smith case, this clause might stand.

Mr. BLAKE. I do not suppose that the hon. gentleman proposes that we should even formally pass the very important clauses which add to the lien power of banks. I think we had better let them stand instead of passing them and coming back to them again.

Sir JOHN THOMPSON. I was referring to the request of the member for Quebec Centre (Mr. Langelier), to allow that clause to stand.

On section 75,

Mr. BLAKE. I think that clause demands some exposition.

Mr. BLAKE. I would like to know from the hon. Minister of Justice precisely in what regard he considers that this clause restricts the powers which are found to exist under the present law, and whether there is any particular, and if so, what, in which he thinks the clause extends the powers that exist under the present law?

Mr. BLAKE. Will the hon. gentleman explain this clause by giving us a few examples of what he means by the "wholesale producer" as distinct from the "wholesale manufacturer?"

Mr. BLAKE. The section reads: "a wholesale manufacturer or producer of any goods, wares and merchandise." On turning back to the interpretation clause, I find that:

"The expression goods, wares and merchandise, includes, in addition to the things usually understood thereby, timber, deals, boards, staves, sawlogs, and other lumber, petroleum, crude oil, and all agricultural produce and other articles of commerce."

We have thus the wholesale manufacturer or producer of agricultural products, as well as of other things; and, therefore, the section seems to me to include the whole farming community, unless the term "wholesale" is to except the whole farming community; or if it is partly to except and partly to include, I would like the line of demarcation drawn.

Mr. BLAKE. The object I had in view in asking my question was to obtain the opinion of the Administration as to the meaning of the clause, as it now stands. I am strongly impressed with the view that the clause, in its present shape, accomplishes the object desired by the hon. member for Frontenac. Whether it be laudable or advantageous to the farming community and the country, or not, may be more disputable, but it accomplishes the object. I am not versed in these things, but I suppose that the wholesale manufacturer is the person who manufactures for sale in bulk to those who sell in retail to others. He is the person whose

goods reach the ultimate consumer, not directly but through an intermediary distributor. That I understand to be the wholesale manufacturer. To the wholesale producer the same interpretation will apply. He is the man who produces articles which he does not, as a rule, proceed himself to retail directly to the ultimate consumers, but which, in whole or part, he disposes of in bulk to some intermediary, who is the vehicle of transmission to the ultimate consumer. Every farmer, or almost every farmer in the country, is a wholesale producer under that definition. His cattle and grain may go to England, or the States, or to the towns of Canada; his products may go through half a dozen hands in bulk before they reach the man who eats them. Therefore it is, I ask what was intended by this clause? What is the line of demarcation? If in the term "wholesale producer" you include the producer of agricultural products, what farmer does the clause include, and what farmer does it exclude? It may exclude the small market gardener, who, having "three acres and a cow," proceeds daily through the streets of the city near where he lives, and peddles his goods from door to door, and so, himself producing, reaches himself with his produce the ultimate customer; but, even as to him, if he goes into a market town and sells those very articles to a huckster, or another vendor, who is the intermediary between the producer and the consumer, I do not know on what principle you can call even a small market gardener other than a wholesale producer. So it seems to me that practically, although with, perhaps, great profit to the legal fraternity as to determining the exact line of demarcation, and with the prospect of many interesting law-suits before the question shall be determined definitely and substantially, the whole farming community are to be the recipients of those countless blessings which the hon. member for Frontenac (Mr. Kirkpatrick) would ask this House to shower on their heads. At present we should first know what it is proposed to us to do, and then we can discuss the question on its merits.

Mr. BLAKE. Once again, I repeat the suggestion that our discussion would be confined in much more practicable limits if we could learn first whether it is the intention of the Administration to propose to us by the clause, that which the hon. member for Montreal (Sir Donald Smith) has just advocated, and which the hon. member for Frontenac (Mr. Kirkpatrick) and the hon. member for Grey (Mr. Sproule) think so desirable, namely, that the farmer should be in a position in which he can, by a security note of this description, unregistered, grant to a bank security for advances upon articles which he produces.

Mr. BLAKE. I would ask the hon. gentleman whether in view of the suggestions I have made that the interpretation clause expressly includes agricultural products, and that you thus find the phrase to be "wholesale producer of agricultural products"—whether he does not think that almost all persons who come under the denomination of farmers are embraced within this provision at this moment?

Mr. BLAKE. I think the decision which is referred to is based, as far as that subject is expressly dealt with, upon the article of jurisdiction to which the hon. gentleman has alluded, namely, banking; and it is founded upon an expression used in the case of Cushing *vs.* Dupuy, which is there cited, and to which we had reference the other evening. I think that some force is certainly due to the consideration which the Minister of Justice has addressed to us, namely, that for a great many years, ever since Confederation, more or less, we have assumed this power, and the assumption has been accepted to a very large extent in the practical execution of the business of the country, by the banks and by the public at large. But when we are called upon to deal with enlargements of the proposition, when we are called upon to go a great deal further, as it is now claimed we have been, perhaps, unconsciously called upon to go, and as we are in fact clearly, by the proposition now before you, called upon consciously to go, it is perhaps well to direct attention to the alarming consequences to which, stretched to the extent to which they are proposed to be stretched, that proposition extends; because, you will see that if it is to apply to the case of the farmer, it may be very proper and equally within our power to apply it, so far as banking purposes are concerned, to the case of every person who owns any tangible thing whatever. And it is being proposed to be extended, and it is, in the judgment of the Minister of Justice and of my own, whatever the latter may be worth, by this clause now extended to certainly very much the largest single class, and to a class probably equal to one-half of the whole of the community at this moment. And, therefore, you have it, I do not mean to say, with respect to all the goods belonging to that class, but with respect to the goods they produce, that the general principles of law in all the Provinces, so far as I know, principles founded upon a fundamental proposition as to public convenience, in which the masses of the community are interested, with respect to the degree of credit which is attached to the visible possession of personal properties and to the securities which are required to avoid mistaken credit being extended, are to be wholly departed from. I agree in the general principle which the hon. Minister of Justice has stated, in defining what was understood to be the intention of this clause. I can quite well understand that under the general interpretation of the term there may be very great difficulties, twofold in their character, in carrying out in practice, as applied to manufactures, the general principle of non-recognition of a claim on or of conditional ownership in property not in the visible possession of the claimant. The first difficulty is the constant mutation of the object, the log being transferred into lumber, the fleece being turned into cloth; and so forth; and lumber, cloth and so forth being constantly sold to the public, and replaced by the manufacturer; and the second difficulty is the difficulty of credit to which the hon. gentleman adverted. I can well understand and appreciate as sound the proposition that, so long as you are able by your definition to point the attention of the general public to this fact, that the law declares that in the case of certain persons the visible ownership of the stock in trade does not give you the slightest security that he really owns that stock; that it may be all the property of a bank, and may be mortgaged for more than it is worth; and that you, therefore, are not entitled to give him credit on his visible possession of it; you may

in that way get rid of, or minimise at all events, the inconvenience which is generally felt throughout those portions of the world which adopt our principle of jurisprudence to arise from the recognition of the principle of ownership, conditionally or otherwise, apart from the visible possession or notoriety of claim. But if you are going to adopt a provision so extensive as that now suggested, you must consider what the convenience of the farmer is, and it is in the light of his convenience as a class that you must consider it; and you must also consider the enormous change you are going to make in the Provincial regulations with respect to the ownership of property. It is not to a small class or for particular circumstances, but, substantially, to a very large proportion of the persons and with respect to a very large proportion of the property owned throughout the whole of Canada to which the new principle is to apply, not indeed the principle that the farmer shall not be able to secure a loan from anyone upon his property—it would be monstrous to say he should not—but the principle that the farmer shall be deprived of the credit and facility for obtaining money and supplies which exist under the present law. Because no man, after your proposed change takes place, can tell whether a farmer really owns one bushel of the grain in his barn or any of the cattle in his stable. They cannot go anywhere to find out this information; they cannot go to any place where there is a register of the chattel mortgage, and they cannot ascertain anything about it; but there may be a note in some bank, which we will not call a "shaving" shop, which is said to be the farmer's present resource, which note really represents the goods. That is one aspect of the case. The other aspect of the case is that it is proposed to effect, not merely a partial innovation, to a limited extent and for defined reasons, upon the ordinary law as to personal property, but it is proposed practically to revolutionise that law; and then you come necessarily to the consideration as to how far it was really intended, under the constitutional power, to legislate on "banking," that you should thus interfere with the right of the Provinces to regulate the disposition of personalty and indeed of real property as well. I know no reason, none in the world, why, if this power does exist, you might not apply it to the land. I do not know why you cannot say by another sub-section that by a note of hand or by a verbal promise made by a farmer to a bank, a mortgage may be made on his land. The legislative rights of the Provinces cover property and civil rights. The same words embrace both, and you may as well, so far as the jurisdictional question is concerned, provide for an oral charge upon lands by the farmer or the owner in favor of a bank or for a parol charge or a charge by an intrument not under seal and not registered. So this opens a very large question, and it is sufficient to say that while I would acquiesce in the view of the hon. gentleman, reserving my personal opinion as to this question—while I would acquiesce in the view that he might not unfairly call on this Parliament to re-enact substantially those provisions which have been assumed to be the law of the land, in regard to which there is some color of support, at all events of judicial authority, yet when the Minister of Justice calls upon us to make a change so extensive as the change which now appears to be clearly involved in the amendment, we are bound to consider the whole question, seeing that we are further invading the Provincial power, however strong the position of the Province may be, by the proposed application to these new conditions of the propositions we are invited to accept. With respect to the question of the farmer's advantage to be obtained by this extension, I suppose that the great bulk of the representatives of this House are representatives of rural districts or of districts in which the farming community forms a great majority. I suppose they have at heart the interests of those classes of their constituents, and no suggestion to do them a real benefit could possibly meet with anything else than the most respectful attention and the most earnest desire to give it effect. The question whether you can provide cheap money and easy money for the farmer is a question which has puzzled so-called theorists and speculators upon financial questions for a long time. You have had the proposition of the land bank, the proposition for farmers' banks, the proposition for a national currency based upon the land, or an irredeemable currency, you have had numerous proposals to help the farming community to cheap and easy money; but the conditions upon which cheap and easy money are to be obtained are absolutely opposed to the principles which, in regard to the production and manufacture of goods, are found to be sustained by this House and by this country at the present day. It is the law of supply and demand and of free competition, which is the vital and effectual law in this regard. The moment the farmer can show that he can give the same prospect of a return, with the same rapidity, with the same advantage, with the same security that other competitors for the stock of available money can give, he will get all the money he wants; and to the extent to which he cannot show that he will never get it; and if this Parliament sit from now to Christmas, it will never be able to give it to him.

Mr. SPROULE. Yes; it has been done in Germany.

Mr. BLAKE. How?

Mr. SPROULE. There are farmers' banks there.

Mr. BLAKE. I am not talking of farmers' banks. The hon. gentleman says he knows about it—and he knows about everything—but he told us himself that the farmers have been considering the question of farmers' banks for a long time, and that they have not been able to find the way of working them; nor has the hon. gentleman done so. I advise him to go to Germany and find out.

Mr. SPROULE. The hon. gentleman may have as much time at his disposal to go there and find out as I have.

Mr. BLAKE. I will try and find out the next time I am there. In the meantime, as we have not the information from Germany, and as the condition of German farmers, and the condition of German operatives, and the condition of German society, and the condition of German manufacturers, and the condition of German politics at this moment, is not the most favorable in this world, we had, perhaps, better not attempt to find light from Germany, for the purposes of this debate at all events, and proceed to consider what else we can do. The present proposal is not to

find the money in Germany or to adopt the plan of Germany; but it is to establish it by arranging—although I do not think that would be the effect of the hon. gentleman's amendment—that the farmer may be able by this cheap and easy process to pledge his property to the bank. I think that the hon. gentleman's amendment, which simply says that the farmer may obtain money upon the security of his property, is an amendment which does not alter the position of the farmer one whit. He can now obtain money upon the security of his property if he only finds any one who will lend it to him. There is no objection at present to his giving a chattel mortgage or to his giving security, according to the Provincial law, to private lenders. The question is what the advantage or detriment to him may be, if the provision be introduced which permits him to give a security note to a bank, instead of a chattel mortgage to a private lender, which security note puts him, as an agricultural producer, in the same position as the producer of other produce, or the manufacturer of other goods. The position of the farmer then will be just this: By his giving a security note, that is to say, without divulging to the rest of the world that he is giving a mortgage—he will be able to secure the bank for the advance. That is all that can be proposed in this regard, and the question we have to consider is, would this be to the advantage of the great mass of the farmers, who, I am happy to believe, do not want to borrow upon personal security, but who do want to be able to retain and use that security in their ordinary transactions which is due to the realisation of the fact by those with whom they deal, that they are the owners of certain property, upon which general credit they are supplied with goods and given money. The general basis of credit which the farming community enjoy at present would be destroyed by this proposal, and any advantage which it may give them will be counterbalanced, far more than counterbalanced by this loss. My own opinion is that the mass of the farming community would be seriously damnified by this proposal. I believe there would arise a degree of uncertainty with regard to the ordinary basis of credit, in reference to the whole farming community of the country which would be most calamitous, and that instead of helping the farmer, we would do him a serious injury. I do not think it makes much difference to the banks at all, for it is not so much a banking question; but as far as the interest of the farmer is concerned, I believe he is better off as he is now, than he would be if this amendment were introduced into the clause.

Mr. BLAKE. I did not say that the security notes were so much worthless paper.

Mr. KIRKPATRICK. The hon. gentleman said it was an infringement of civil rights, and that in order to become a security, there must be a registration or a visible change of the property.

Mr. BLAKE. What I pointed out was that it was highly questionable, in my present judgment, whether we had the power to so interfere with the Provincial laws on this subject; but discussing the policy with respect to the farmer, I assumed, both in his case and in the case of the manufacturer, that the security note would be valid, because, if void, it would make no difference.

Mr. KIRKPATRICK. First, it was highly doubtful whether it was worth anything; and, in the second place, it was injuring the credit of the farmer. If it injures the credit of the farmer, it injures the credit of the manufacturer, and, therefore, the clause is altogether objectionable. The clause, originally, was confined to warehousemen who had the property of others committed to their care, and who could properly give a warehouse receipt; but now it is proposed to extend it to manufacturers of goods.

Mr. BLAKE. It is already extended.

AGRICULTURAL PRODUCTS.

Mr. BLAKE. I quite agree with the hon. gentleman that the amendment he suggests would be the way to put the farmers in just the position in which he proposes to place them. Let me give a practical illustration of the difficulties of the situation and of the difference between the two classes to which he refers. The manufacturer who gives a security note is, of course, in constant relations, perhaps too constant relations for the comfort of both, with his banker; and the banker, if he knows his business, keeps a pretty close eye upon the customer whose security note he has, and there must be always a good deal of trust and confidence in the business. The banker has confidence that the manufacturer, who is constantly disposing of his goods, will, notwithstanding this, keep in stock, on the whole, the security of manufactured stuff which is represented by the secured note. That is the position of the manufacturer, and that is the way in which the thing is worked. Then the banker if he knows his business, knows whether the manufacturer is keeping two banking accounts; and if the manufacturer clandestinely keeps a second account with another bank, he generally comes to grief, to the loss of one or both. There again you have the trust, the confidence, the watchfulness and vigilance which it is possible to apply to that class of cases. But these conditions do not apply to the farmer. He resides a little way, let us say, out of Kingston, where there are several banks, or a little way out of Toronto, where there are a great many banks. He may or may not have come into town, and at one of the fifteen or twenty banking offices may or may not have obtained a discount by giving his security note upon his grain or cattle. Who is to tell whether he has done so or not? How are you to know at any time whether he really owns the grain or cattle which he offers as security, or whether, if he wants to sell, they are his to sell. A degree of uncertainty necessarily exists in his case which does not exist in the other; and in order to enable the borrowing farmer, who has not credit enough in his own locality, to borrow without giving a chattel mortgage, every farmer in the country is to have the assumed title to his property placed in doubt and the facilities for the sale and disposal of his property considerably impeded.

Mr. KIRKPATRICK. Does a grain dealer buying grain go to a registry office to see whether a chattel mortgage is registered against it?

Mr. BLAKE. No.

Mr. BLAKE. I can assure the hon. gentleman (Mr. Sproule) that I did not make any observations

on his remarks with any sneering intent. I may say that I do not know of any common member of this House, and I can assure the hon. gentleman that, so far from regarding him as a common member, I regard him as a most uncommon member.

Mr. BLAKE. I suppose that, under clause 69, it would be possible for a bank, on the same condition and under the same circumstances under which it may use this interest in real estate to take as an additional security, the security of a timber limit; but I apprehend what the hon. gentleman wants is that the banks should be permitted to lend upon the security of timber limits directly and at once. That would be practically adopting, perhaps in the most objectionable form, the principle of land banks. Our banks are not based on the principle of land banks. That is not the principle of our present banking system. It is not to lend upon real security, or upon future, unrealised values. You do not allow a bank to lend upon the security of the most highly productive fee simple of valuable real estate, producing great rents. You allow it to take a mortgage, under certain circumstances, as additional security for its contract in ordinary business. You may do the same thing in reference to timber limits. If you introduce the principle of lending directly, on the security of a timber limit, why not allow the banks to lend directly on the fee simple of a warehouse, on the real property of any person, and you at once establish the principle of a land bank, contrary to that on which our banking system is based.

Mr. WALDIE. The fact heretofore is that the security was given on the logs, and unless the license to cut timber was clearly transferred with the logs, the property did not go together, and it has been held necessary for the banks to hold the license or the right to cut timber so as to continue their right in the lumber. It has been the common practice of the banks to make advances to manufacturers of lumber, who have purchased the right to cut lumber.

Mr. BLAKE. My hon. friend misunderstood me if he supposes I am objecting to that. I understand it is perfectly legitimate, that a bank which makes an advance to a manufacturer for the purpose of enabling him to cut his timber, should take as an additional security, even now, the security of real estate. The hon. member for Frontenac however wants something more, but what definitely I do not know; but I assume it is this, that instead of making the transaction a legitimate banking transaction, which is an advance to a person in the course of his business, and on his general credit for the doing of work and upon the prospect of a *bonâ fide* mercantile operation, you are going to authorise an advance upon the security of his chattel interest, whatever it may be in real estate. That is not the principle of the present Act. The principle of the present Act is that you make it upon the personal security, and, with reference to the mercantile operation, having the right under certain circumstances to take as an additional security, a charge on real estate. But I am bound to say that this Bill seems to contemplate the statutory recognition of that which is new in law, though I fear not in practice, the loaning directly and primarily on chattels, instead of restricting the basis of loans as does the present law. This is a questionable extension.

Mr. KIRKPATRICK. I understand that timber limits require a great deal of capital to work them. The owner generally goes to a bank to obtain that capital, and it is for the security of the bank not only to have the security of the timber cut, but the security of the license.

Mr. BLAKE. So they have. I am told that half the limits in this country are in the hands of the banks.

On section 76,

Mr. BLAKE. Would it not be well to make it a written promise?

Mr. BLAKE. It rather strikes me as if the man would be liable, if he did not deliver possession to the bank of the goods, no matter for what reason they were not delivered. Suppose, for instance, they were burned up.

Mr. HALL. The non. delivery must be wilful.

Mr. BLAKE. The Act says "if he does not deliver to the bank possession thereof;" the word "wilful" does not appear.

OTTAWA: Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON

BANKS AND BANKING.

WEDNESDAY, 7TH MAY, 1890.

Mr. BLAKE. I fear very much that what has fallen from both sides may lead to considerable misconception. The suggestion of the Finance Minister is, taking the particular instance to which reference has been made, that some enquiry would be made which would result in the discovery, in such a case, that a considerable portion of the stock had been floated by means of an institution created by the bank itself. That is impossible. That did not and could not take place in the case mentioned, until after the authority for the issue of the stock had been obtained. It was not until the stock came to be placed on the market that the machinery referred to was used for the purpose of facilitating its being taken up. I do not know of anything that could have been done in that matter, and I am somewhat familiar with the circumstances, unless the Treasury had taken the very extraordinary and invidious course, as a preliminary to giving the certificate, of making such an examination as would result in ascertaining the value of the assets. The difficulty there was that there were enormous assets which were alleged to be, and I have no doubt were, regarded by all the directors as being—I cannot say what the temperament of the cashier might lead him to believe—but they were regarded by the directors, at all events, within a few weeks of the collapse, as being perfectly good. The condition of the bank appeared, long after the increase of capital, to be perfectly good. Its real condition was only to be shown by analysing the value of its assets, by determining whether an enormous sum should be written off from notes and other securities which it held. Is it suggested that the Treasury Board, as a preliminary to deciding whether the capital stock shall be permitted to be increased, shall enter into such an enquiry as that? If that is not the suggestion, then I am afraid nothing can be done. If that is the suggestion, and if it is adopted, I fear a very great responsibility will be incurred by the Government of the day which announces that it has made enquiry and that the proposal is a sound one. In this particular case, I think the proposal was to double the capital at a premium of forty, so that there would have to be an enquiry into the condition of this institution, showing that its present stock was worth at least forty, and that its earning power was such as to justify the public in subscribing at forty. Nothing could be more fatal to the public credit than to make a slight and colorable enquiry; nothing more arduous than an exhaustive enquiry, and I am afraid that this clause will lead to nothing but difficulty.

Mr. FOSTER. What my hon. friend has stated as to the responsibility of the Treasury Board, by placing this clause in the Bill, is undoubtedly true. I suppose we would have power to go into the examination of the affairs of a bank as a condition precedent to allowing them to increase their capital stock, but that is not the intention. It might be that the shareholders would decide by a majority to increase the stock, while a large and respectable minority might not agree to that, and any representation by that minority as to the increase or decrease of stock might very well be taken into consideration by the Treasury Board. If we do not go so far as to make a thorough inspection of the condition of the bank, which is not contemplated, I do not think this involves the grave responsibility which the hon. gentleman suggests in regard to the affairs of the bank.

Mr. BLAKE. I would suggest to the hon. gentleman that his present view would be met by putting in a provision that a certain majority shall be required. If a respectable minority is to have its weight, let that be potential; but the suggestion that the hon. gentleman is going to make an inspection as to the expediency or the justifiability of this increase in stock, is a very dangerous one.

Mr. FOSTER. On section 57 discussion arose with reference to the payment of notes circulating by the different banks, and I will suggest that instead of the word "payment" we put the word "circulation."

Mr. BLAKE. What does that mean?

Mr. FOSTER. That means just what we are driving at, that the notes issued by different banks shall not go below par, and that the banks shall

make what arrangements are necessary in order to ensure their being circulated at par, not below par.

Mr. BLAKE. I suppose we are a hard money House and the hon. gentleman is a hard money man. I do not understand how we can declare that the circulation of the bank shall be at par without providing that it shall be payable at par.

Mr. FOSTER. The bank will have to look after that matter.

Mr. BLAKE. I am afraid the hon. gentleman is getting to soft money very fast.

Mr. DAVIES (P.E.I.) I want to know if by enacting the first part of the section, declaring that they shall make such arrangements as are necessary to ensure the circulation of the notes at par, the banks have to establish agencies at other places than at those mentioned?

Mr. FOSTER. If it is necessary to ensure the circulation of the notes at par, other agencies must be established.

Mr. DAVIES (P.E.I.) It will impose a very heavy duty on the smaller banks, especially those in the Maritime Provinces, if they have, in order to ensure payment at par of the circulation throughout the Dominion, to establish agencies in every town and city in Canada.

Mr. BLAKE. The latter part of this clause is not an adequate provision for the fulfilment of the first part of it, and if it is to be interpreted as an exposition of what the banks are to do in fulfilment of the obligation of the prior part, it is altogether an inadequate fulfilment. The clause would be stronger with its original wording, and with the latter part struck out. I feel there is a great deal of difficulty in the direction which the hon. member for Queen's (Mr. Davies) has pointed out. The difficulty will be very small indeed in regard to the large banks, each of which possesses a considerable number of offices, and each of which can compensate the other by making mutual facilities for redemption. It is different, however, in regard to the smaller banks. Take, for instance, a note issued by the Bank of Prince Edward Island, which is handed in for redemption at Vancouver. If an arrangement could be made between the banks for their mutual accommodation in this regard, the difficulty might be solved.

Mr. FOSTER. The arrangement which is indicated in section 56, is one which the banks have voluntarily taken on themselves. It is not a compulsion laid on them against their will, but it is an arrangement into which they are quite willing to enter. To the representatives of the banking institutions, I pointed out the very objections which the hon. gentleman has taken. The bankers said, that practically those objections were not formidable, because they were even now, and had been during the last year, very materially altering the condition of things by agreements made amongst themselves, and no difficulty whatever would be experienced. It would of course be a quite different matter, if we proposed this compulsory clause against the wishes of the smaller banks.

Mr. BLAKE. I quite agree with the hon. gentleman's statement. If the smaller banks were satisfied, we should be satisfied.

On section 57,

Mr. FOSTER. We will strike out all after the word "not" in section 57, line 50.

Mr. BLAKE. Do not you think that sections 56 and 57 conflict? In the earlier part of section 56, a person is to get cash or the equivalent for cash, and he cannot get any more than that.

Mr. BLAKE. As I pointed out before, I think it is very important that the bank should, as soon as possible, cease to be the holder of its own stock. During this time, the double liability which appears to the public is wholly illusory. A bank, which is in a position to go on at all, ou be able to sell its stock in six months.

On schedule D,

Mr. BLAKE. I confess that it is very difficult, for me at any rate, to judge which form is best. We ought certainly to obtain all the information which we can without unduly hampering the operations of the banks, and we ought even to obtain such information as is essential to a fair view of the situation, though it may, to some extent, hamper them. But we know that some of our banks occasionally place large sums of money at particular points in the States, and do considerable business there. A bank, for instance, may have a large sum of money at an agency in New York and another at an agency in San Francisco; and if you take into account the gross sums due by and to these agencies, you might get, I will not say a perfect view, but a considerable insight into the amount of Canadian funds invested in the United States. That would be very interesting, if it not unduly hamper the operations of the bank the United States. We do not at present how much of a bank's capital it is using in Toron... Montreal, London or other places where it is doing business. Is there any public ground why we should do what is now proposed, if it is going to interfere with the business of our banks in the States? The only ground that has been suggested is, that if it is found that they are investing any large sums of money there, some business tax may be imposed upon them. We know that some of them are obliged to pay a business tax now. I suppose they would like to be in the position of some people who are taxed on income, that nobody but themselves should know on what income this business tax should be computed.

Mr. BLAKE. I sympathise with the statements of the hon. member for Cardwell (Mr. White), and I suggest to the Finance Minister that, as I do not suppose he intends to take the third reading to-night, he should consider the subject and communicate with the banking authorities to ascertain whether there is any real difficulty that can be stated by him on the floor of the House in the way of the suggestion being carried out, because the statement of the hon. gentleman certainly shows that we do not get anything like approaching the facts in the return.

Mr. FOSTER. I have no objection to allow it to go in that way.

Mr. KENNY. I understood the hon. member for Cardwell (Mr. White) to refer solely to the Bank of British North America.

Mr. BLAKE. No; he said there were several others doing business in the United States to which his remarks would apply.

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House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECH OF HON. EDWARD BLAKE, M.P.,

ON

ROYAL ASSENT TO BILLS.

FRIDAY, 28TH MARCH, 1890.

Mr. BLAKE. I wish to call the attention of the Ministers and the House to a question of parliamentary privilege which arises on the proceedings that took place here and in the other House on Wednesday, and I call attention to it at the earliest moment after the Votes and Proceedings have been placed before us. By referring to those Votes and Proceedings, it will be seen that you, Sir, reported to us a Message which you received from the secretary of His Excellency the Governor General, bearing date 24th March, informing us that:

"The Honorable Sir William Ritchie, acting as Deputy to His Excellency the Governor General, will proceed to the Senate Chamber on Wednesday, the 26th inst., at 4 o'clock in the afternoon, for the purpose of giving assent to the Bills which have passed the Senate and the House of Commons during the present Session."

And at a subsequent period, after the members of this House had attended the Senate, you reported to us that His Honor the Deputy Governor had been pleased to give assent, in Her Majesty's name, to certain Bills, numbering thirty-two or thirty-three. At the moment I thought that these did not comprise all the Bills passed during the present Session up to that time, and upon further enquiry I find there are several important Bills omitted—about seventeen altogether on which no action whatever was taken. The constitutional rule of old standing is that to all Bills which have passed through all the stages, and are, as far as the two Houses are concerned, ready to become law, the Royal Assent is due and should be given on the first occasion on which it is given to any Bills. A prominent and marked instance of a violation of this rule was one which occurred in the time of the first Charles, in the Session prior to the Oxford Parliament, when it formed the subject of a conference by a joint committee of both Houses. This conference agreed on the general principle, which is well understood, that the Royal Assent is due to all Bills which have passed both Houses; and the modern practice in England is, owing to the length of the Sessions, to have numerous commissions during a long Session for the purpose of giving Royal Assent to Bills, from time to time, as they are ripe for assent. These English commissions are limited. The Commissioners are given power to assent to only certain named Bills, and, consequently, they can assent to no others. Therefore, to avoid the inconvenience and breach of the constitutional rule which might arise should a fresh Bill become ripe for assent in the few days between the appointment of the commission and the Royal Assent, it is the custom of both Houses not to press forward any such measures to the final stage in that interval. They are kept incomplete, in order that there may be no other Bill ready for assent on the day when the Royal Assent is given to the Bills named. It seems to me there has been, for some cause which I do not understand, and will not attempt to characterise, a violation of the ancient and wholesome constitutional rule on this occasion; for which violation, of course, the Ministers who are responsible to the Crown, and to the people, must answer to us. I now merely bring this question before the House without further action; and it seems to me it is important for us to consider whether we should not assert by resolution the constitutional rule, so that this infringement may not be drawn into a precedent.

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House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON

TORONTO UNIVERSITY, &c.

FRIDAY, 14TH MARCH, 1890.

Mr. BLAKE. I beg to call the attention of hon. gentlemen opposite to a question of public interest, which, it seems to me, ought to be considered by us for a moment at this stage of the Session. I refer to the matter which was brought up in the House yesterday by an hon. member for one of the divisions of Toronto, and which the right hon. the First Minister asked to be allowed to stand. I mean the question as to whether the Government intended to submit to Parliament some proposition with reference to the recent conflagration at the University of Toronto. I have some reason to believe that suggestions have been made from more than one quarter to the Administration on that subject; and, following the course which it has always seemed to me more expedient to pursue, I am anxious to makes any suggestions I have to make with reference to a money grant, here openly and under my responsibility as a member of this House. I wish to submit that the circumstances of the case are such as may not unreasonably induce the favorable consideration of those who are responsible for the administration of public affairs, and of the House at large, to some exceptional proceedings on this particular occasion. The institution, whose loss gives rise to my present observations, is one which may not unfairly be described as of a national character. It is one wholly unsectarian, and whose benefits are participated in by all citizens, of whatever creed or origin, of the large Province to which they belong; and in a community like ours, which is, and is long destined, I hope, to be a democratic community, without any enormous accumulation in individual hands of property, composed mainly of men who are dependent for their maintenance upon their own labor and exertions, it is of peculiar importance that institutions of the highest class for learning should not suffer serious impairment, but, on the contrary, should be efficiently promoted. The character of the calamity to which I refer is so exceptional that a remarkably marked and far extended interest and sympathy have already been exhibited. In the neighboring Province, a proposition to grant aid, as a mark of sympathy, is now far advanced and will doubtless become effectual, and in the city of London a committee has been formed, comprising the names of very distinguished men, with whom we are familiar as having filled, some of them, the highest station in our country, as the representatives of our Sovereign, and others as former Colonial Secretaries, with the view to signify, in a substantial, tangible manner, that a bond of sympathy exists, even between us and that remote community. I may say that, after a very careful consideration of the situation, which my own relation to the University rendered it my duty to give, I am convinced that the peculiar position is one which entitles us to say that the exigency is great. Contemporaneously with the loss of the library, to which I am about more particularly to refer, has occurred the destruction of the main portion of the fabric: and the restoration of that portion, without any unnecessary expense whatever, in the most economical manner possible, consistent with the efficiency of the institution as it now stands, will involve a very large expenditure for the old and the new necessary buildings, beyond all the public or municipal and all the private assistance which we can now fairly expect. A large public grant has been made, a municipal grant is hoped for, and the liberality of the friends of the institution, including the graduates, has been appealed to, and appealed to so far with gratifying results. But from what I know of the situation, I am convinced that all possible resources which are available will have to be applied in order that the efficiency of the institution in its present condition, and looking to its present needs, may be maintained. I am not at all insensible of the difficulty and the delicacy of the situation in more than one respect. A question may be raised with reference to our interference with educational institutions, a question may be raised also with reference to money grants, which may form an inconvenient precedent; and to these considerations I am myself disposed to attach—although this particular institution is one which

would naturally induce me to think lightly of them —all due weight. But it seems to me that the case, in the particular aspect to which I am about to allude, is not, after all, a difficult one, and is open to a solution which relieves us from difficulty, because what is suggested, and what seems to be the most practical method of affording relief, is that the Government should propose to the House some relief in respect of that duty—that very onerous duty, as I venture to conceive it is, the duty on knowledge—which is imposed in the shape of the tax on books. We have a library to replace which will cost more than $150,000, and that at prices and values irrespective of duty, or, at any rate, having regard only to the light book tax which prevailed formerly. The book tax is now, as well as I can remember, at the rate of 15 per cent., and it seems to me that no inconvenient precedent would be created, owing to the exceptional character of the occasion, and the almost impossibility —I hope the impossibility, or, at any rate, the extreme improbability, of its recurrence—if the Government would make up their mind to propose such a grant, based on such a view, as would involve the remission of the tax on the books to be supplied. It is with a view of making that suggestion to the Government that I have ventured to interpose for a moment between you, Sir, and the adoption of the motion now before the House.

STEAM COMMUNICATION BETWEEN HALIFAX AND ST. JOHN, N.B., &c.

Mr. BLAKE. I congratulate the hon. gentleman's county upon having returned to Parliament a member so patriotic and so broad in his views, and so liberal in his notions as to Canadian policy; I congratulate the Government on having such an ardent and enthusiastic supporter of the great National Policy; but, above and beyond all this, I congratulate the hon. gentleman's company on having such an able and earnest advocate of the policy which is to result in the granting of this subsidy to his company. The hon. gentleman said he might be regarded by some people as something of a crank on this subject. If he be, I take leave to say to him that the crank has been very well oiled by his friends in front of him this Session. Not a single revolution of the crank or of the crank's steamboat engines but is produced by the moneys of the Canadian people, to be voted at the hon. gentlemen's instance, and by his assistance. The hon. gentleman was asked a question, which I am told was greatly reprehended—it was said that it was his private business. It was alleged that the whole charter price of the steamboat was less than the whole amount of the subsidy to be voted. The hon. gentleman made an interesting speech; he touched on many topics, but he omitted that; nothing was said on that subject whatever. The common sense aspect of the question, which, perhaps, never forced itself on the hon. gentleman's attention, but which did force itself a little on ours, remains in the same obscurity in that regard, on which he could have given us the best of information, that it was in before he rose.

Mr. BAIRD. I really forgot that.

Mr. BLAKE. I thought so.

Mr. BAIRD. I know it will be a source of satisfaction to the hon. gentleman to learn that the amount paid for the use of the steamers will be nearly double what is received from the Government. The charter, as near as I can recollect—Mr. Van Wart made it and communicated it to me afterwards—was £850 sterling per month for the use of this steamer. Then add to that the steward department, the coal——

Mr. DAVIES (P.E.I.) How much does the hon. gentleman get per month?

Mr. BAIRD. You must take it altogether, as near as I can give it to you. The trip occupies two months. In regard to these ocean steamers, there are two forms of charter: one is called net, and the other gross. Under the one form, you take the steamship as she is, provided with all that is necessary; under the other form, you furnish the captain and everything that is necessary to work the ship—you take charge of the steward's department, the purser's department, and the hands; and under the arrangement Mr. Van Wart made, I say it costs half as much, almost double what comes from the Government to pay for the use of that steamer. Now, that is as nearly as I can place it, and if any hon. gentleman wants greater satisfaction let him come to the company and I will, although I am only what is called the marine manager of the concern, and not the business manager of the concern, give him the fullest and most ample information. There is not a thing I wish to conceal from any hon. gentleman, Liberal or Conservative. The whole business is perfectly open, and, if necessary, I will show the whole expenditure of the steamer and all relating to the business. There is nothing that we want to disguise or that we need to be ashamed of. At present, when ocean steamers are in great demand and freights are enormously high, it is absolutely necessary to yield to the demands of their owners, and we have to put as good a steamer on the route as we can get.

Mr. BLAKE. The hon. gentleman must not suppose that I imagined he was ashamed of this or of anything. Not at all.

Some hon. MEMBERS. Hear, hear.

Mr. BLAKE. Has the hon. gentleman done anything to be ashamed of?

Mr. FOSTER. Nothing to be sneered at.

Mr. BLAKE. Then why should he be ashamed of anything? The hon. gentleman has told us that the charter price was £850, so that it appears the charter price was about the amount of the subsidy. He says it is true there is a difference between the net and the gross charter.

Mr. BAIRD. That is for the month. We only get paid $4,000 per trip and we pay per month in advance for the steamer; so that two months have to be paid for the one subsidy.

Mr. BLAKE. So that according to the statement the Government pay a little more than half the cost of the charter

Mr. WALLACE. No.

Mr. BLAKE. The hon. gentleman in front of me denies it; but the hon. gentleman himself nods assent, and I prefer to accept his statement to that of the hon. member for West York.

Mr. WALLACE. He says about half.

Mr. BLAKE. The result, according to the statement of the hon. member for Queen's, is that the subsidy amounts to one-half the charter price and more, the trip not taking the full two months as I understood it ——

Mr. BAIRD. Yes.

Mr. BLAKE. I am right in saying it does not take the two full months, and, therefore, the subsidy represents more than one-half the cost of the charter. Under these circumstances, the public pay more than one-half the total expense of the charter of the vessel. So that I do not think it is very wrong to say that the crank is tolerably well oiled. The hon. gentleman alluded to great examples which were to be followed or shunned by Canada. He alluded to the marked experiences of two great nations with reference to the progress of their marine—Great Britain and the United States; and he told us that the painful decadence of the ocean marine of the neighboring Republic was due to its not having observed proper rules of development. I think he is quite right in that general proposition, but I wholly dissent from him as to the particular facts to which he refers. I am old enough to remember when the American marine was strong and powerful upon the seas, and strong and powerful, notwithstanding what the hon. gentleman has alluded to, although, I think, in a wholly mistaken sense—the English mail subsidy policy, or, as he calls it, the policy of protection. Hon. gentlemen who have looked at the discussions in the neighboring Republic, are familar with the arguments of those who have advocated these subsidies, and what they call the policy of protection for many years, and we know how utterly exaggerated and fallacious their views and arguments are; but I say that the English subsidy policy, such as it is, was far more extensive in early than in later days; and in those early days, the American marine was strong and powerful upon the seas. There was a time in which ninety per cent. of the American products were exported in their own bottoms. There have been changes, of course. They were twofold. There was, in part, the substitution of iron for wood, and of steam for sail, and in part, also, there was a change in the fiscal policy of the Republic. Those natural advantages which at one time the Republic had, when wood was the principal material, became, to some extent, changed and altered in favor of England, as iron became a substitute for wood, and, whatever advantage remained to the Republic, became lost by their high protective system, which rendered it utterly impossible for them to build ships. They can only build ships for their great coasting trade, because they forbid anybody else to compete with them in that,—because they do not allow any vessel under a foreign register, to partake of that trade. But they build no ships for the ocean trade, because they cannot. I believe that, at this moment, the main body of the stock of the Inman line is held in New York and elsewhere on this side of the water; but, of course, the ships are not built in New York, but where they can be best and cheapest built, that is, on the other side of the Atlantic; and though the Inman stock may be owned there, as well as that of any other line, yet they cannot build their own ships and cannot register them under their own flag. That is the condition of things in the United States. The arguments of the hon. gentleman are, to my mind, those of a gentleman who has a very strong feeling in favor of the policy to which he refers, a feeling it is impossible he should not have, seeing he is engaged in this business, not alone in this particular enterprise but in other enterprises of this character. He says the business is susceptible of great development, and he calls upon us all to help it in every way: by surveys, by buoys, by lights, by beacons, by humane and wise laws, and by subsidies, and yet more subsidies. He says his company is not subsidised enough as yet. I hope the Minister of Finance will remember that. He says they are not at all certain that they will be able, without more subsidy, to go on and develop the trade, and further the great and important mission for which they are incorporated, and in virtue of which he has joined them, but they will try and do their best. He says they are not made of such material—and we know that, because do not we see the principal corporator before us, the marine manager—that a trifle like a coral bank, into which the boat may run, will stop them. No, but a leak in the Treasury must subsist or the boat will go down. Let the Treasury leak, and the boat will run, and the coral bank will not stop them, because a vote of credit will patch up the ship, and the company will be up and doing. I pitied the hon. gentleman for the unfortunate position in which he said in the opening of his speech he was placed. It seems that in this Canada of ours there was one gentleman, a member of Parliament, who was not a free agent. He did not go into this matter voluntarily; he did not seek it, but the company sought him, and persuaded and compelled him. Mr. Van Wart came to him and insisted on his joining the company; and so it was against his will, and by compulsion that he joined the company and took the position of marine manager. He reminded me of another famous character. You recollect, Sir, Mrs. Cluppins, in the famous trial of Bardell and Pickwick, who, being called to testify to a conversation which she heard through a chink in the door, was asked by the counsel: "And so you were listening?" "Not at all, Sir," she replied, "I would scorn the haction; the woices forced themselves on my ear." So it was that the hon. gentleman did not want to join the company, but was forced and compelled by Mr. VanWart into the painful, and disadvantageous, and unprofitable position he occupies to-day.

Mr. BLAKE. Whatever relevance the suggestive parallel of my hon. friend from Bothwell may have as to the prospects of the country, I think it is very clear that it is extremely inapplicable to the vote before the Committee, because nobody will pretend that the oats are kept at a notable distance from the horse on this occasion. The Finance Minister knows and takes care that these oats find their way where they are intended to go. I hope the digestion of the animal is improved, and that he will get more sleek under the operation. I have no quarrel to make with what the hon. member for Queen's, N.B., has just said, so far as it relates to me; on the contrary, I rather admire the tone and spirit of his last speech, and I admire it most of all because the hon. gentleman did, as I understood him, express some regret for that event to

which I alluded in the remarks I had made. I was very glad to hear that expression of regret. It is the first I have heard from the hon. gentleman, and I wish to say that if I had known he had made such an expression of regret before, or if I had heard such an expression from him before, I would not have made the allusion I did make. The hon. member for Albert (Mr. Weldon) has attacked me, and gone over a wide field in general terms in a manner to which I do not intend to respond. I intend to say only, that I have had a seat, with the exception of one Session, in this House since the Dominion of Canada was established. It has been my good or my evil fortune to have taken a somewhat active part in debate during these twenty-three or twenty-four years, and I never have been conscious of any reluctance on my part to meet any hon. gentleman in debate in this House. It has been my part from time to time and at various times to stand opposed in debate to hon. gentlemen opposite, and to take my part, as far as I could, with hon. gentlemen opposite, even with the ablest and best of them. I never felt apprehensive of the hon. gentleman's leaders, not from any consciousness of peculiar powers, but because I do not conceive that hon. members in this House stand in any such sense as the hon. gentleman avers, upon an inequality in debate. I believe that no man in this House need be apprehensive of standing up against any other man when he has honest convictions on any subject to which he has given his best attention, and is stating the conclusions to which his reason and judgment have led him. I do not think any man here, has, during my experience here, in dealing with public questions, had need to be afraid of meeting any other member. I should be sorry to regard the position of members of Parliament as different from what I have stated. I hold myself free to answer the observations of any man at any time and under any circumstances, and I believe the only serious inequality that subsists between one member and another is, not that inequality which may be due to his experience in debate, but that inequality which subsists as to the side he takes and the merits of the arguments he addresses to the House. That is the difference, from my view, in the position which the hon. member for Queen's (Mr. Baird) and hon. gentlemen on the other side occupy in this debate, and the position which hon. members on this side of the House occupy. We differ in opinion on that subject, as the hon. member for Queen's has said; and the great questions involved have been debated for a great while, and I suppose will be debated for a great while longer before their solution is reached. But there ought not to be, and I repudiate for my part, the notion that there is any such inequality between any hon. member on this side of the House and any other hon. member as would render it unfit for any member to stand up and address his observations to those of any other hon. member, as would render it improper for one man to stand up against another; I repudiate the notion that we stand on such an unfortunate footing as regards the dignity and independence of members of Parliament, as has been suggested by the hon. member for Albert. The hon. gentleman has dwelt upon some grievance which he says I have committed against him—I do not know what—at a very early period, and which he seems to have cherished even to this distant day. I cannot express my apologies to the hon. member for Albert, because he has not told, and I really do not know, what the offence was. If I did, I would tender to the hon. gentleman's wounded, and apparently susceptible feelings, the same apology I would have expressed to him at that distant date, if he had communicated to me then this grievance which remains even yet quite unknown to me.

Ottawa:—Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON

TRANSLATORS' DEBATE & CARAQUET RAILWAY.

THURSDAY, 8TH MAY, 1890.

OFFICIAL DEBATES.

Mr. BLAKE. The hon. Secretary of State has delivered a most convincing speech. At least it has convinced me ; but what it has convinced me of is, not that the salaries of the translators of *Hansard* should be increased, but that the salaries of the translators of the blue books should be reduced. Because we have learned from hon. gentlemen who have examined into the question that they are satisfied, first of all, that the salaries of the *Hansard* translators are adequate ; and, secondly, that plenty of translators can be found of the same class at the same price. And yet the hon. the Secretary of State alleges that they only get about one-fifth of the price paid for the translation of the blue books, which, he says, is a work requiring much less skill than the translation of the Debates.

Mr. CHAPLEAU. No.

Mr. BLAKE. I understand so. It seems to me, therefore, while not sending this report back to the Committee, the Printing Committee, if it has anything to do with the translation of the blue books, should, when it next meets, have some regard to the speech of the hon. the Secretary of State in this connection. With reference to the other feature of the controversy, the hon. gentleman says these persons were not dismissed because they were bad translators but because they were traducers. But they had great examples of the fact that traducing of this description ought not to lead to such results. One example has been quoted, and I will refer to another. I remember the language used by the late Senator Rolland, when but a simple citizen, language more violent than any I can recollect being used by the translators, and he received his reward for that language, which he used on the *Champ de Mars*, by being elevated to the Senate.

Mr. CHAPLEAU. The historical reminiscence of the hon. gentleman is wrong. Senator Rolland presided at that meeting, and he it was who prevented any resolution being adopted by the meeting.

Mr. BLAKE. I speak of his speech which I read.

Mr. CHAPLEAU. His speech was not as represented.

Mr. LAURIER. I was there and heard it.

Mr. BLAKE. My hon. friend was there with his musket.

CARAQUET RAILWAY.

Mr. BLAKE. I take the opportunity of speaking on this matter now, as I think it only right that the hon. member for Gloucester (Mr. Burns) should hear what I have to say, before he addresses the House in response to the remarks of my hon. friend from North York (Mr. Mulock). I regard this case as a typical case, illustrative of the policy of the Government in many aspects, and as an important case historically, for the purpose for which history is mainly useful to us, namely, as teaching us what to do and what to avoid. It is important with reference to those lessons for us, to which the hon. gentleman has alluded, and as proving the care which ought to be taken, and which has not been taken, with reference to the character of the enterprises which are aided by the Government. It is important with regard to the care which ought to be taken, and which has not been taken, in reference to the construction of subsidised roads ; the care which ought to have been taken, and which has not been taken, with reference to the solvency and the *bonâ fide* character of these enterprises ; the care which ought to be taken, and which has not been taken, as to the results which may accrue to us—the injurious results to Canada in a financial and moral point of view—with reference to the business honesty and with reference to the financial solvency of the schemes which are undertaken. It is an important case, also, with reference to the relations of members of Parliament to the Executive of the day, and to the Parliament of the country. In all these respects, Sir, this is a typical case, which has engaged my attention from an early date, and to which I have called attention in some aspects, although

in some aspects only, in my own Province, in respect to which hon. gentlemen on the Treasury benches attacked me for the course I took. I thereupon decided that I would take the first opportunity which should arise to express my views on the floor of this House, in the presence of the Government, and in the presence of the hon. member for Gloucester (Mr. Burns). Now, Sir, the Caraquet Railway Company was brought to the attention of Parliament in the first place, at the close of the Session of 1883, upon a proposition made by Sir Charles Tupper, the then Minister of Railways, that Parliament should grant it, in common with a number of other enterprises, the subsidy which was then fixed at the mileage rate, of $3,200. The Minister of Railways then made a statement, which was a little fuller, I imagine, than my hon. friend from North York thought, and which, in order that justice may be done to the Minister and to the Government which he represented, I want to place before the House. Sir Charles Tupper then said:

"Then it is proposed to provide a subsidy for the Caraquet Railway Company for thirty-six miles of railway from a point near Bathurst to Caraquet, in New Brunswick, not exceeding $3,200 a mile, and in the whole $115,200. I may say to the House that this is also another branch of the Intercolonial Railway. During the time that the Intercolonial Railway was being located and constructed, the House will remember that Mr. Fleming brought forward a project of reaching the sea by constructing this branch of forty-five miles from the Intercolonial Railway down to Shippegan, and that this project was viewed with very great favor by a large portion of the press, and by a great many people in this country. The Government made a survey of the line, and found that it could be constructed at a comparatively moderate expense, and that there were no serious difficulties in construction; but it has not been proceeded with as a Government work; a company, however, is organised for the purpose of constructing the line from the Intercolonial Railway to the harbor of Shippegan, where navigation is reached; and they have also obtained from the Government of New Brunswick, a subsidy of $3,000 a mile for forty-five miles from the Intercolonial Railway to Shippegan. They have applied to this Government for additional aid; and after having given to the subject the most careful consideration, we feel that we would be warranted in asking Parliament to provide $3,200 a mile for thirty-six miles, which is the shortest distance that will take them from the Intercolonial Railway to tide water where they will be able to reach navigation. This line also runs through a very interesting section of country that is susceptible of great development, and we believe that it will afford, in the same way as the Baie des Chaleurs line, to which I have already turned the attention of the House, means for enabling the fishermen of that portion of New Brunswick to have infinitely greater advantages than they have at present and increase the value of their catch, because, as in other instances, they will be able rapidly to send fresh fish at a small cost by rail to the western portion of Canada, and to the various markets of the United States. This line will also so develop that section of that country, and so increase the receipts on the Intercolonial Railway by giving us additional value of traffic, that we believe it will make an ample return to the Government for the subsidy which the House is invited to give. I have no doubt that if any further information is required with reference to either of these lines, my hon. friends who represent the line provided for in Quebec, and my hon. friend the member for Gloucester, with relation to the Caraquet Railway, will be able to satisfy the House that this is a wise and judicious appropriation of public money, looked at in the light of the commercial results which are to occur in the increased development of the country, and in the increased value of traffic over the Intercolonial Railway, which has cost this country so large a sum of money, and which it is desirable should be rendered as useful as possible to this country by promoting the construction of these subsidiary lines and branches that will throw traffic into it."

So you see, Sir, that having made a general statement, rose colored and not detailed, as most of the statements of that Minister we know were, laying out the general lines of the particular discussion which was to follow, the hon. gentleman appealed, and by anticipation, entrusted the detailed statement which was to be made to the hon. member for Gloucester. Well, that hon. gentleman began, as my hon. friend from North York (Mr. Mulock) said, by reading a report of an earlier date, by Mr. Sandford Fleming, in which he detailed the glories and advantages of the harbor of Shippegan, and the probable result based on mileage distances, and on sundry calculations, which, after all, have very little to do, indeed, with the complicated questions which are involved in the success of an ocean terminus, and a combined land and water communication. I say, reading some of these calculations with great unction, the hon. gentleman pointed out that this was, after all, the short route to Europe—that it was through the great port and entrepot of Shippegan that the commerce and oceanic travel of this country were to flow in the future. Nor, Sir, have we been altogether without ministerial warrant for so considering the port of Shippegan, for I well remember when the then Minister of Railways, in his annual orations on the subject of the Canadian Pacific Railway, approached the subject of the trans-continental connections, and when, to avoid any undue rivalry, he used to hurl at the head of the House the names of half-a-dozen or more different Atlantic ports which were to be the terminal ports on the Atlantic, the name of Shippegan was to be found in the long roll of Atlantic ports. Then, Sir, the hon. member for Gloucester, summing up the results of that part of his case, said:

"The railway will in the future, at all events, be of incalculable benefit to the Dominion at large."

That was the general statement of the hon. gentleman; and I think on this occasion I must admit—and it is doing him high honor—that he "went one better" than his predecessor, the Minister of Railways, the greatest master of tropes that I know of. Then the hon. gentleman proceeded to deal with what, after all, might be supposed to be more within the grasp of an ordinary member like myself. He said:

"But, Sir, the scheme is not put forward on that ground alone; it is put forward, perhaps with even greater force on other grounds, and that is, the immense trade the road would develop and would tend to build up, not only in that particular locality, but over the Dominion as a whole. By the construction of that road an enormous trade——"

It was an immense trade a moment ago; it is enormous now.—

—"an enormous trade would be given to the Intercolonial Railway; as a feeder of the Intercolonial Railway it is not second in importance to any other road, and because it is a feeder of the Intercolonial Railway, I assume that my hon. friend opposite can have no objection to it. As I understand him, he is in favor of any road that will feed the Intercolonial Railway. To give an idea of the amount of trade done along that road, and of the population interested in it, I may inform the House that between the point where it is proposed to connect the Intercolonial Railway and the terminus of Caraquet or Shippegan, a distance of forty-five miles, there is a population of 18,000 souls. The whole country, from end to end of the proposed road, is settled. The value of the products of that section of the country during the past year amounted to some $1,000,000, made up as follows: Lumber, $300,000——"

Who was the lumberer?—

—"fish, comprising canned goods, codfish, salmon, herring, mackerel and oysters, $500,000; grindstones, $50,000; farm produce, $150,000. There are a number of other industries which would contribute to give the road a large trade, and all of which would find its way to the Intercolonial Railway. To the West this road will be a great benefit, inasmuch as it will afford the people an opportunity, which is now denied them, of getting their fish in a fresh condition, and they will have a larger market for

their products, as well as the East a larger market for theirs."

Can you doubt that after those statements the Opposition was dumb? Of course, as happened before, as has happened ever since, as is happening to-day—nay, not to-day—to-morrow, to use the hon. gentleman's favorite word, at the earliest—three weeks after the normal termination of the Session, we are not placed in a position to consider properly the rose-colored statements made with reference to proposed railway grants. We had then no opportunity of checking those figures, discounting those tropes, dissecting those flowers of rhetoric and figures of speech with which the Minister of Railways and the hon. member for Gloucester overwhelmed us; and so the vote was passed for those 36 miles which were represented as necessary to reach the coast by the shortest route; and to ensure these great advantages $115,200 was voted. But, Sir, you know, the way politic people do these things is not to alarm at first. They ask for a little; they make a beginning; they do not put the blunt edge of the wedge to the timber and hammer on the thin edge, but they put the thin edge in, and give the wedge a gentle tap, and when the timber is well opened, they insert another wedge a little further. And so, with regard to this enterprise, we were seduced by the statement that $115,200 would give us all these grand advantages to which I have referred; and, for my part, I frankly confess to you, taking them at their word—nay, giving that appropriate discount which one ought to allow in valuing the statement of a Minister and the statement of an interested representative—I did think the road was cheap at the money—that the grant was very small for those great advantages. Well, a year passed, and the happy time arrived for those who had been expecting their fortune in railway subsidies in the Session of 1884; it came on the 10th of April in that year, when the same Minister was called upon to deal with the question of further subsidies to railways, and what did he say? Sir Charles Tupper said this:

"Then, Sir, at the last Session of this House, we provided for a line of railway from the Intercolonial Railway to Caraquet, and it has been found, as in the other cases adverted to, that the line was too short to enable the parties to make the necessary financial arrangements."

Too short, Mr. Speaker! I have always thought that for a great through line of railway, the shorter your line the more likely you would be to succeed; but it seems that the line was too short:

"It is now proposed to ask the House to extend the subsidy granted last Session for twenty-four miles further, from Caraquet to Shippegan Harbor, thus making that short line of communication to which great importance was at one time attached, I know, by this Government, and I believe also by my hon. friend opposite, from the Intercolonial Railway to the harbor of Shippegan."

So you see we begun by making a grant for 36 miles, and then it is proposed, on the ground that the railway is too short, to go 24 miles further, and so obtain the further inestimable privilege of access to the port of Shippegan.

"And I am instructed——"

Says the hon. gentleman, who on this occasion took instructions—

—"by my hon. friend the member for Gloucester (Mr Burns), that the appropriation of $3,200 a mile for the additional 24 miles will enable him to secure the prompt construction of the 40 miles between the Intercolonial Railway and Shippegan, furnishing, as I have said, a most valuable feeder to the Intercolonial Railway."

Well, a little discussion arose on that occasion. The First Minister proceeded to discuss, upon the same day, to some extent, the general policy and its propriety as applicable to the case in hand. He said:

"The present policy has been already explained by my colleague. There are very many tracts in the country which would be very much aided and developed by reasonable assistance. The people say——"

The people, mark you.—

"The people say: We would like to have a railway, but we cannot start it; we have not capital enough; we cannot interest capitalists in our line; our municipalities are not rich enough to commence these lines, and, therefore, we must do without them. So that, if a tract of country is really eligible for a railway, which is likely to be ultimately a commercial success, the Government are encouraging the people by giving them a subsidy of $3,200 a mile, and if there is anything in the scheme the people will undertake it. They will go to the municipalities along the line of railway, get the stock lists up, and start a real basis to work upon. Thus, without overburdening the Dominion Treasury, you will have a number of really good schemes, having some real merits in themselves started. As my hon. friend has said, that is a good test whether a railway scheme has any real merit. Parliament grants a subsidy of $3,200 a mile for a particular line; if it has any real merit the road will be established, and, if it has no merit, it must, to be built, throw itself upon the public treasury altogether, and then——"

What do you think?

"It will never be built."

The Oxford and New Glasgow, the Great European and American Short Line, and other enterprises, speak in trumpet tones to prove the truth of the hon. gentleman's statement. Subsidies were granted those lines; assistance was given to them; but the test, which the hon. gentleman suggests, of real merit being applied to them, they could not get on. The road, not having any real merit, was not established, and in order to be built:

"It must, if it has no merit, throw itself upon the public treasury altogether."

It had no merit; it did throw itself upon the public treasury; and then—I must alter the words in the record, and instead of saying, "it never will be built," say: "it will be built accordingly." That is what history tells us. We are building these roads out of the treasury to-day. A little further, in the course of the same discussion, when the vote came up for the extension of the line of railway from Caraquet to Shippegan, N. B., —a subsidy not exceeding $3,200 a mile, nor exceeding in the whole $76,800 — which was the second instalment, Sir Charles Tupper said:

"I propose to amend this resolution, so that it shall read: To the Caraquet Railway Company, for the extension of the railway from Caraquet to Shippegan Harbor, which makes a distance of 60 miles. A company has been already organised for the construction of the work, and this is to enable them to cover the entire distance from the Intercolonial Railway to Shippegan Harbor."

I ask the attention of the House to that statement, for a reason which wil' presently appear. We get into Shippegan Harbor, we have the statement of the Minister that 60 miles will cover the entire distance from the Intercolonial Railway to Shippegan Harbor, and that the vote proposed would enable the company to cover that entire distance; and once again we grant a subsidy, and an increased subsidy. Would you not imagine, Sir, that we had got to the end? We began with 36 miles, which was to give us all these advantages. Then the road was too short to be built, so we had to add 24 miles, and we are

told this is to be the end. But in 1886 the present First Minister, being then in charge of the business, had occasion to bring up the Caraquet Railway Company again, and being asked for some explanation, gave the explanation I am about to read. I congratulate the hon. Minister and the country at large that there was one session—the session of 1885—in which the Caraquet Railway did not turn up. In 1883 it was to the fore; in 1884 it came to the fore; in 1885 the hon. member for Gloucester (Mr. Burns) was, happily for us, dumb, perhaps sucking the sweets already secured; but in 1886 he was back again milking the cow. The First Minister then said:

"That railway is destined to leave the Intercolonial Railway at Bathurst, and run in a north-westerly direction to Shippegan. Sixty miles have already been subsidised——"

Now, we knew all that before, and we thought we had certainly got to the end of it.—

—"and the present subsidy is to extend the road to Shippegan——"

This is a conundrum of which I did not find out the meaning for some years, and the meaning of which I will tell you, Sir, presently. Sixty miles brought us to Shippegan as long ago as 1884, but, in 1886—

—"the present subsidy is to extend the road to Shippegan, which is favorably mentioned by Mr. Fleming in his report of the construction of the Intercolonial Railway, as a deep harbor."

He recommended it as—

"being the stepping-off place to Europe."

There was the hon. First Minister's statement that we now wanted 10 miles more to get to Shippegan Harbor from the Intercolonial Railway. First, it was 36 miles to Caraquet; then 24 miles more were to bring us right on to Shippegan; and then a further 10 miles—how many miles more shall we have to subsidise to get to the same point, I wonder?

It being six o'clock, the Speaker left the Chair.

After Recess.

COPYRIGHT ACT.

Mr. CHARLTON. Before the debate is proceeded with, I desire to say that I see it stated in the *Empire* that the Canadian Copyright Act is to be allowed by the Imperial Government. I would ask the First Minister if he has any information in regard to that matter.

Sir JOHN A. MACDONALD. We have no official information; we have only seen the statement in the papers.

THE CARAQUET RAILWAY.

Mr. BLAKE. When the House adjourned, I had just read the observations of the First Minister on the proposed additional ten mile grant of 1886, and I had pointed out the circumstance that this extension or expansion had taken place without any explanation. Upon that subject I made an enquiry, being puzzled as to how the land lay and as to how the railway lay, in these terms:

"The prior grant was to a point called Lower Caraquet. I do not observe this to be mentioned at all. The first grant was to Caraquet, and then to Shippegan Harbor, and this grant is from Lower Caraquet, which is presumably the termination of the present subsidised portion. I do not know the ground, but perhaps the hon. gentleman does.

"Sir JOHN A. MACDONALD. I do not know the ground."

So neither of us knew anything about it. It was not my business to know the ground, but it was the business of the hon. gentleman, as he was proposing the additional ten-mile grant. Not finding anything about the lay of the land, I thought I might find something about the company, and so I asked:

"Can the hon. gentleman tell me something about the names? A person named Burns is the owner of eleven out of the twelve shares of the stock of the company, and the application is made by him. Has he any connection with the member for Gloucester?

"Sir JOHN A. MACDONALD. It is the hon. member himself, and, if the hon. gentleman enquires, he will find that it is due very largely to the enterprise of Mr. Burns that this very important road is built. He has thrown himself into it with enthusiasm, and without that enthusiasm the road would not have got so far.

"Mr. BLAKE. I am glad the hon. gentleman has exhibited so much enthusiasm. Why should he not, when he owns eleven-twelfths of the enterprise? If that amount should not give him enthusiasm, I do not know what the hon. gentleman could be enthusiastic about.

"Sir JOHN A. MACDONALD. His enthusiasm was manifested by his becoming the owner."

Well, so much passed in 1886, at which time we find the Caraquet Railway to have uncoiled, like some great serpent, and to have expanded itself to the length of about 70 miles between Caraquet and Shippegan. I have now to open a new scene in the drama, because, in 1887, on the 23rd June, a proposition was made to substitute seven miles for the last ten miles of that road. The road which had grown so much, which had grown so portentously, was shrinking now, and it was to be cut down to 67 miles instead of the 70—but not so with the subsidy. The subsidy was to stand for the 70 miles, though the road was to be cut down to 67 miles. The proposition of that date was to continue to subsidise the last hypothetical ten miles at $32,000, though only seven miles were to be constructed. Not all the contrivances of the hon. member for Gloucester, to which I shall subsequently call attention, could stretch that road to 70 miles, but still it was to have the subsidy granted for 70 miles. The late Mr. Pope, then Minister of Railways, said, on this occasion of 1887, that this was a very important road and connecting with a very important point on the Bay. My hon. friend from Oxford (Sir Richard Cartwright) and my hon. friend from Northumberland (Mr. Mitchell) pointed out that the proposal was practically almost doubling up the subsidy; in fact, that it amounted to $4,570 a mile instead of $3,200 a mile, but no explanation whatever was vouchsafed in regard to that. The same thing has been done elsewhere. I admit that the hon. member for Gloucester (Mr. Burns) is not unique in this respect. There are other cases where persons have asked for a subsidy of $3,200 a mile for a greater length of road than they constructed, and Government have afterwards come here and said to Parliament: You voted that $3,200 a mile; it is true that the railway is not more than two-thirds of the length; still, you were willing to give $32,000, when you thought you were getting ten miles, and you may as well give the same amount for the short length as for the long length. That is what was done in this case. I believe that a mystery which has remained undeveloped so far may find some solution here. We have been trying to discover where Shippegan

is. We know that it is somewhere in the Gulf, we know that it is an important terminus, we know that it is one of the termini proposed for the ocean steamships. My opinion is that the failure of the negotiations with the Andersons in regard to the new mail line must be owing to the insistance of the Government that they should include Shippegan among the points at which their fast steamers were to call. It will be observed that, in the debate of 1886, I pointed delicately to the fact that the hon. member for Gloucester (Mr. Burns) was the owner of at least eleven-twelfths of the Caraquet enterprise, and upon that occasion the First Minister pointed out the meritorious character of the attitude of the hon. member for Gloucester in that regard, and stated—and I cordially agree with him in that respect—that, but for the enthusiasm, as he called it, of the hon. member for Gloucester, the railway would not have got so far as it had. During the electoral campaign of 1886-7, I quoted, and I admit not infrequently, the facts which I have narrated here to-day. I stated these facts, and I used the member for Gloucester as a shocking example. On various platforms I pointed out the circumstances which, I conceived, rendered it inconsistent with the independence of a member of Parliament that he should occupy the relation to the company and to the Executive which he did in connection with this railway. For that course I was the recipient of a very severe rebuke, nay, of two very severe rebukes from a pair of Ministers who were perambulating Ontario upon the occasion of the campaign. At London the First Minister said this:

"Mr. Blake said in his speech at Ottawa the other day, with respect to the system of granting bonuses to railways:

"What we wanted to show was the relation which existed between the members of Parliament and the Executive, which prevented the former from independently exercising their duty in Parliament. How could a member of Parliament be supposed to vote conscientiously on a question when he knew that the memorial for his railway subsidy was in the Minister's office, and its being granted depended upon whether that vote was yea or nay? It was not in human nature to do otherwise when business was being conducted in this way. The influence of party was strong. The difficulties of a man separating himself from his party—more especially when that party was in power—were many; and if the influences of the Executive were added to these, and the relations the member bears to both, the greater become the barriers in the way. Why! the member's vote is in the Minister's pocket."

And the hon. gentleman went on to say:

"So Mr. Blake was of opinion that no subsidy should be given to any railway in any part of Canada if a member or his constituency was in any way interested in it. How could a member be independent, said he, if a railway going through the constituency was before the Government or before Parliament?"

You will observe that the hon. gentleman adopted that method of argument which we have heard so often from him for these many years, and with which we are quite familiar—he misapprehended, I will say, the point, and misapprehending it, of course, he misstated it. He alleged here that I objected to a member of Parliament advocating the interest of his constituency in reference to a railway. I objected to nothing of the kind. I objected to a member of Parliament putting himself in such a position that his pecuniary interest conflicted with his public duty. The hon. gentleman went on:

"Why, gentlemen, the principle in England and in Canada is very plain. No member of Parliament can vote on any measure in which he is personally interested, and if he is not personally interested it is his duty, gentlemen, to do all he can for his constituents. (Hear, hear, and cheers.) Why, according to Mr. Blake's interpretation of the duty of a member of Parliament, your good member, Mr. Carling, would be guilty of a dereliction of duty, if he had fought for the railway going through here westward, and so with all members of Parliament."

This, Sir, was an unfortunate allusion; for many in that audience must have remembered with shame, that it had been discovered that the present Minister of Agriculture, to whom the hon. gentleman was referring, had, while retaining the outward appearance of disinterested independence, entered into a private bargain in connection with the first, the Allan, Canadian Pacific contract, under which he secured to himself a half share in the interest of the late Major Walker, one of the directors and chief subscribers, with whom Mr. Carling was a secret partner; and thus became personally interested in securing contract terms the most favorable to the company, and the least favorable to the country he was professing to serve. The hon. gentleman continued:

"If this doctrine be true, no member of Parliament can fight for any railway which directly or indirectly benefits him or his constituency. I do not believe in that doctrine. I believe the people send members to Parliament to do the best they can for their constituents, and the more he works for his constituency the better. To show you how unjust these charges made against some members of Parliament are, I will give you one instance. There is Mr. Patrick Burns ——"

It was not Patrick; but he was speaking largely to an Irish audience, and he thought he might thus insinuate that the member for Gloucester was an Irishman. His name is Kennedy, not Patrick.——

"There is Mr. Patrick Burns, the member for Gloucester, in the Province of New Brunswick. He is a Roman Catholic gentleman"——

Therefore, of course, he is a Paddy!—

"He is a Roman Catholic gentleman, coming from Ireland, and he has, by hard work and good character and great ability, made a considerable fortune. He was anxious to assist his constituents; he was anxious that a railway should be built—the Caraquet Railway—to the sea. He found that nobody would come forward—because railway enterprises have not been profitable in Canada—and out of public spirit he put his hands in his own pocket and spent his own money, and after doing so, so far as prudence would allow, he came to Parliament in order to get assistance. We had only to consider whether it was a good road, one for the advantage to the country, or not. We found it was to the advantage of the country, and we gave the road a grant, and Mr. Blake attacked him by name, charging him with corruption, because he held the stock of that road, when nobody else would come forward to his assistance. I said, when the matter was brought up, that he deserved great credit for his public spirit and for having put his money into the enterprise. Why, his independence was not gone, because he was already a Conservative of the strongest type, elected to support the Government (hear, hear and cheers); and it was certain he would support the Government whether he got the money or not. We were only too glad to assist Mr. Burns in his patriotic efforts, by giving it a reasonable grant to help him to build the road."

Then the hon. Minister of Justice followed in the same strain.

Mr. LANDERKIN. Did he call him Patrick, too?

Mr. BLAKE. Oh, no; I do not think his dignity would have permitted him to do that. It is only the First Minister who can afford to unbend in that way. Says the Minister of Justice:

"We have the policy of slander in the Province of Ontario. The men who represent you, you are told from platform to platform, have been soiling their hands with public treasure. I observe that in the speeches delivered in Ontario that matter is not so lavishly handled as it used to be, and special prominence is given to members

living in the more distant portions of the Dominion. For a time a set was made upon dozens of members of the House of Commons, who, one after another, came forward and, with most conclusive evidence, showed those charges to be false. (Cheers.) Lately it has suited the policy of Mr. Blake, as Sir John A. Macdonald has told you, to select for a victim a gentleman who is not so well known as a representative in Ontario; a gentleman who comes from the Province down by the sea. The case of Mr. Burns has been repeated from platform to platform as if he were the most abandoned wretch who ever disgraced a Parliament in any country. Let me tell you that Mr. Burns is a man of the highest character—a man who, if Mr. Blake had ten times the courage he possesses, he would not dare to assail in his own Province (cheers); but it suits, perhaps, the moment, to slander a man like Mr. Burns in places where he is not so well known as in the Maritime Provinces. Without repeating the statement of Sir John A. Macdonald, I may be allowed to repeat some of the points of the case, to show you how extravagant was the course pursued by our opponents in that gentleman's case; to show you how strong the language was that was used respecting Mr. Burns. It was simply the case of a member of Parliament desiring to obtain the construction of a railway for the people he represented. They are people thrifty, economical and not noted for enterprise, but have a reasonable and strong claim upon the Government to give them a public work like that to encourage their industries. (Cheers.) Mr. Burns felt that his duty as a representative of the people, and being one of them, was to put his hand into his own pocket and contribute to the full extent he was able. (Hear, hear.) Having done this, a contribution which no man of common sense would expect to get a profit from, and which was made entirely out of sympathy for the people he represented, he came to Parliament and said: 'We have done all that men can be expected to do, will you deal with us as you have dealt with railways in Ontario, Quebec and Nova Scotia?' and we said in honesty to the people he represented: 'We will give you the ordinary subsidy to railways of that kind.' This is known to everybody in Parliament, and yet Mr. Burns' conduct has been made the subject of reproach. Mr. Blake has stated on platform after platform in Ontario that Mr. Burns was a corrupt representative, because he had received eleven out of every twelve dollars given to that enterprise. He received not one dollar. (Cheers.) The money that the Dominion of Canada contributed to that enterprise went into the work for the purpose of finishing it, and went where Mr. Burns' money had gone. Yet anybody reading that statement of Mr. Blake, would presume that the money which was granted by the Dominion Government towards the railway was transferred to the pocket of Mr. Burns. That was a statement which nobody would dare to make in the Province where the work is in progress, and yet it is made to do duty among the intelligent people of Ontario. They most strongly realise that we people down by the sea are strangers to you people in Ontario, and unable to speak in our own defence, or to look you in the face, and when our country is slandered are unable to speak up in defence. But, thank goodness, we are able to stand up in defence of our nation, our Province and our men, and that, too, in the Province of Ontario, before the people before whom we have been slandered. (Cheers.) Then, sir, the policy of slander is the policy for Ontario."

Well, the Minister of Justice, with what I should have been disposed to call sophistry, declared that I had said, or used language from which it might have been inferred, that this money went directly into Mr. Burns' pocket. I cannot conceive how any fair reader or hearer of anything I said could have supposed such a thing for a moment. The statement made throughout was that Mr. Burns was the owner of eleven-twelfths of the enterprise, and was, therefore, interested in eleven-twelfths of the subsidies and aid which made the enterprise valuable. But you will see presently how far and how long they remained out of the member's pocket. In substance it was hardly in truth the company that was subsidised, because the hon. gentleman was the company, he was a corporate Burns; there was but one-twelfth in other names, of which, if my information is correct, a portion belonged to himself. But at any rate he represented and owned eleven-twelfths of the subsidies of the company, and the corporate Burns received, even if we allow that there was an alien interest of one-twelfth, out of the subsidy a very large sum. There were $224,000 of a Dominion subsidy, of which his eleven-twelfths would be $205,000. There was a New Brunswick subsidy of about $180,000, of which his share would be $165,000, making a total for the corporate Burns from both Governments of $370,000. As to the New Brunswick subsidy it was simply an element in the financing of the road, and in regard to this particular part of the transaction, in which I am dealing with the hon. gentleman's relations to the Executive and to this Parliament, it is not material. But being thus interested in the road, being, in fact, the company, and, in fact, the road, the hon. gentleman was kept on tenter-hooks for three or four years. He was doled out something in 1883, he was doled out something more in 1884, he was doled out something more in 1886, and he was doled out something more in 1887. That was the condition of parliamentary independence in which the hon. gentleman stood for all these years. Now this is said to be not a singular case. I observe in an address which has been issued in a constituency now vacant, the candidate says:

> "Why I should be singled out for public censure when there are dozens of members in the same House, who, not only have applied for and obtained limits for themselves, but sit there daily voting moneys into their own pockets, I cannot understand."

Mr. CHARLTON. Who is he?

Sir RICHARD CARTWRIGHT. His name is John Charles Rykert.

Mr. BLAKE. I take the earliest opportunity of repeating here the view which I have expressed elsewhere on this subject, and of repeating the distinction, obvious I should have thought to anybody, between an hon. member who, interested as he ought to be, in the welfare of his constituency, does exert himself for the benefit of that constituency, and an hon. gentleman who, being a member, becomes substantially the proprietor of an enterprise, and is substantially the person subsidised by the Executive, through the action of Parliament on its advice. But I have something more to add. The case in hand is one which exemplifies in almost all its aspects the mischief of the Government's course, as that course has been carried out, and the recklessness of their methods in carrying out that course. The greatest harm has been done to us as to the character of our investments, as to the character of our Parliament, as to the character of our Government, and as to our financial and commercial morality, and it seems to me it is eminently needful that Parliament should intervene. Some time ago, I caused further enquiries to be made as to this railway and as to the methods which have been used in respect to the course of financing this enterprise, to the extent to which it was financed in England, apart from the two Government subsidies to which I have referred. I believe that it was represented that the capital stock was subscribed to the full amount of $950,000, that it was paid up to the extent of a little over three-quarters of a million, some $751,000 odd, leaving of course about $200,000 uncalled and available. I believe, as a matter of fact, that statement was not true. Possibly on a small part of the subscribed stock, somewhere about 5 per

cent. had been temporarily paid, but even that trifle, I believe, had been recouped out of the subsidies or other assets of the road, to those who paid it. I believe the hon. member for Gloucester (Mr. Burns) was the contractor, the company, the railway. In truth, he seems to me to have beaten Poo-Bah "out of his boots." He was the shareholder, he was the president, he was the manager, he was the contractor, he was the customer, he was the financier, and he was the supplier of the railway company. He was all these things; and so you may call him everything in connection with this company, however inconsistent, rolled into one. I believe the alleged cost of the construction of this road, as represented in England, was the modest sum of $23,200 per mile, while, in fact, it would not cost, at fair values, rails included, and with contractor's profit, more than about one-third that sum. I believe that the whole cost of the enterprise, rails included, at fair values, with contractor's profits, was provided out of the Government subsidies and the sales of the bonds in England for £100,000 sterling; and not merely was the whole cost, at fair values, with contractor's profits, so provided, but there was left an excess of a very considerable amount, which went into the pocket of the hon. member for Gloucester (Mr. Burns). So that he received eleven-twelfths of the stock, and he made a considerable fortune out of his construction contract. It is quite possible to project a railway which will result as disastrously as this railway has resulted, and yet to make a fortune out of the undertaking. The railway may be useless, but the contractor may become a proprietor and a man of fortune. I believe the hon. member paid a very large proportion, probably about three-fourths, of the wages and local supplies in truck out of his store; and that he issued a sort of ticket, which passed as a local currency in the country to some extent, and by this means of paying in truck he made a very considerable addition to his profits. In fact he could give a wrinkle to his colleague the Finance Minister, who was troubled a good deal in getting the Banking Bill through the House, which has now fortunately gone to the Upper Chamber, with respect to the redemption and circulation and the keeping up of our currency at par. I am told that the hon. member for Gloucester (Mr. Burns) by means of these little tickets, which came down to very low denominations, managed, for the cost of paper, type and ink, to keep in circulation a considerable sum, and to subsequently redeem it, I will not say at par, but in a manner that left him very handsome profits indeed. I believe there is an explanation of the lengthening of the line, which must have puzzled us all, which puzzled me for a long time, for I could not at all understand how it turned out that this line which was to be only 60 miles from Bathurst to Shippegan could afterwards be represented as being 70 miles in length, and how even when that extreme length had been curtailed there could still remain 67 miles. It is to be accounted for thus. The hon. Minister, as I have told you, stated, during the progress of this affair through Parliament, that it was a great misfortune to have too short a railway; and, carrying that view into practical execution, there are two arrangements for lengthening the mileage. The hon. member for Gloucester (Mr. Burns) has a couple of mills in that neighborhood. To one of these a branch somewhere about a mile long was built, which forms part of the mileage, and to reach the other mill he deflected the road, increasing its length in that way, five or six miles. Thus it was, and in these two ways, that he found a method by which to swell sixty into sixty-seven or sixty-eight miles in getting from Bathurst to Shippegan. Why, Sir, the great highway between the East and the West, the great link stretching from the ocean port of Shippegan, connecting with the Intercolonial Railway, and thence with the Canadian Pacific Railway, and so on to Vancouver, thus linking England with China and Japan, was lengthened seven or eight miles, in order that the traffic to be derived from the mills of the hon. member for Gloucester (Mr. Burns) might not be lost to the world! Well, seven or eight miles may not be much, but it is between twelve and thirteen per cent. on a mileage of sixty. Now, Sir, I have acquired some verbal, and some written information on these subjects which I wish to communicate to the House. A correspondent says:

"But, according to my mind, the most objectionable point on the line is the curve to Burns' mill. It makes the road longer by at least seven or eight miles, for which, not counting the extra expenses for building the road, the expenses of travelling and freight will be much higher than if it followed a straight line to Caraquet, which could have been very easily done. If, at the mill, there was a kind of town, there might be some reason for a deviation from the straight line, but the only traffic there is that of the mill. As far as I know, the right of way has not been paid yet, which causes more or less murmuring among the people."

This letter was written some years ago; I hope it has been paid since.—

"But Mr. Burns promises that it will be all right by-and-bye. The people who worked upon the line have been, I think, pretty well paid, although I heard many complaints, that they had to wait long for their pay, and even forced to accept store pay; but I cannot say to what extent these complaints were founded."

Then, Sir, I have another letter from another correspondent who says:

"I do not know how many stockholders there are, but feel safe in saying that there are not more than eight or nine besides Burns. The original stock list contained a large number of names and the amount subscribed was in the vicinity of $1,000,000. In order to get rid of such an unwieldy number a call of 5 per cent. was made on the subscribed stock. The stockholders were, of course, unable to pay, and many of them transferred their stock to the president, others declined to pay and their names were struck off the list. Some say that the stock was sold and Burns bought it in, but as I never saw the required notice of sale in the *Royal Gazette*—although it might have been published—I am inclined to the belief that the stock list was reopened. Seven of the subscribers were allowed to hold sufficient stock to enable them to act as directors and went through the form of paying the 5 per cent. call. I heard that two others were retained. Burns then took the balance of the stock allowed by law, $950,000. I cannot speak with certainty, but it is generally understood and believed that the amount which was paid upon the stock by a few of the stockholders has been since refunded. I was told by a man who had a contract for grading a section of the road that the grading would not exceed $2,000 per mile. I judge that the cost of grading and bridging from Bathurst to Caraquet did not exceed $2,500 per mile. From all the information that I have been able to gather I should say that about one-fourth of the whole was paid in cash, and three-fourths in goods from the stores of the president; the sleepers cost 8 cents apiece and were paid for chiefly in goods. Then men employed on the road, placing the sleepers and rails, ballasting, &c., are nearly all paid in goods, as so far as I can learn nothing has yet been paid for land taken for the road, nor for damage to crops, except a trifle, nor for lumber cut upon the lands through which the roads runs and used in building culverts, &c."

As I said before, this letter was written some years ago, at the end of 1886.—

"They have two pretty old looking second-hand locomotives, one cheap second-class passenger car, two freight cars and ten or twelve flat cars. This fall they bought a snow plough. There is a station house at the junction worth about $700, one at Burns' Mill, Bathurst, one at Clifton, one at Grande Anse, one at Burns' Mill, Caraquet —now called Burnsville——"

So that the hon. gentleman has got his name on a town if he has not got his name in the railway.—

—"and one here at the village of Caraquet. The average cost of these would not exceed $350 each. You will have a better idea of the cost of rolling stock and rails than I. I heard the company's engineer state, at a dinner given by the president, that the subsidies would be sufficient to build and equip the road. He had then about completed his survey and based his estimate upon it. The roadbed is very good for a new road, and rails, although considerably lighter than those on the Intercolonial Railway and New Brunswick roads, are, I believe, of very good quality. Besides the station houses there are eight small platforms along the road for landing and receiving freight. I have not gone over that portion of the road from Caraquet towards Shippegan ten miles, but speaking from my knowledge of the country, there is not one bridge in that distance, and not more than four culverts on small streams."

Then from another correspondent:

"I think Burns procured his rails by hypothecating the first mortgage bonds of the company to the full amount of issue authorised by the company's charter. A small portion of them only have been actually sold. This would leave Burns his two subsidies to grade and equip his road, and I am quite convinced that he would not have more than from $2,000 to $2,500 to give out of these subsidies, but he would most certainly have that much of a margin. It is a well-known fact that Burns was in pecuniary straits at the time he went into the railroad, and he is now in good standing. I am satisfied————is right as to Burns being the company and owning the whole undertaking, and that not a dollar of private moneys have been put into the enterprise by any here connected with it. It is true there was a deviation in the line of the railway permitted to reach and take in a mile of Burns, adding six miles to the length of the road."

Then from another correspondent about the same date:

"The road starts from the Intercolonial about one half mile south of the Nepesiquit River and runs down following nearly the course of the river about four miles; there is a branch from there to Mr. Burns' mills about one mile. From Grande Anse the road curves running south to Burns' mills on Caraquet River, eight miles from Grande Anse; this deflection lengthens the road about five miles. The bridge across Bass River has a small granite abutment at each bank, one granite pier in the centre of the stream and two box truss spans of about thirty-five feet each. The bridge on Caraquet River has only one span of about thirty feet. At Bertrand's Brook, about four miles below the mill, there is a wooden bridge about 400 feet long, built upon bents and trestles, and a small wooden bridge at Pokeshaw. At Little River, Caraquet, there is a cedar bridge built in blockwork, about 500 feet long. These, I think, are the only structures on the whole of the line that can be called bridges. There are, I should say, eight to ten wooden culverts, large and small, on brooks and hollows, with earth fillings from six to twelve feet. The grading of a considerable portion of the road was let in short sections to several contractors by private contract. One of those contractors told me that the grading would cost about $1,000 per mile. The grading and bridging of the whole road would not exceed, I should think, $2,000 per mile. The rails are very good, of medium size. There is a station house at the Junction, one at Burns' Mill, Bathurst, one at Clifton, one at Grande Anse, one at Burns' Mill, Caraquet River, and one at Caraquet, average cost of each about $350. Mr. Burns appears to be building the road himself; whether he has gone through the form of having a contract from the company, I do not know. I cannot say correctly what proportion of the work was paid for in goods at his stores, but I think it safe to say that three-fourths of it were paid in that way and one-fourth in cash. I presume that the subsidies if properly managed would build and equip the road as it is now equipped; in fact, I heard the engineer of the company state that they would, after he had made a survey. First mortgage bond was sold in England for £100,000 sterling on the 60 miles, at £98, at 6 per cent. interest. A call of 5 per cent. was made upon the subscribed stock; of course only a few responded. I believe just a sufficient number to form a board of directors (7), others transferred their stock to Mr. Burns; this is how he got possession of nearly all of the stock.

"The cost of the road is represented in England to be about $24,000 per mile.

"It is generally believed that whatever was paid has since been refunded from the subsidies."

Now, Sir, I turn to the English business. There were two prospectuses issued in England, the first of which I have not had the opportunity of seeing, but of the second I happen to have a copy. It appears to have represented that there had been a prior allotment of £30,000 out of a total bond issue of £100,000 stg.; and the prospectus was for the issue of £70,000, being the unallotted portion of £100,000 of 6 per cent. first mortgage sterling bonds of £100 each, redeemable at par in 1904, and secured as a first charge. They appear to have been issued at 98. The prospectus states:

"The Governments of the Dominion of Canada and the Province of New Brunswick have given a joint guarantee to the Caraquet Railway Company of £1,280 per mile, amounting in all to a free grant of £76,800, being more than one-fourth of the cost of construction. As security for the payment of the interest on the whole amount of the bonds for three years, viz, up to the 1st of July, 1889, inclusive, a sufficient sum has been set aside and will be deposited with the Imperial Bank in the names of the trustees. The Caraquet Railway is a branch from the Canadian Government's main line, connecting with the Intercolonial at Bathurst, and thus with the Canadian Pacific and the whole of the Canadian railroad system. It runs from the Bathurst Junction to Shippegan Harbor, the eastern extremity of the Province of New Brunswick, establishing a through communication right across British North America from the Atlantic to the Pacific seaboard. The line has been built in the most substantial manner by contract, at a cost of £200,000, under Government supervision. Already over forty miles are in operation, and the remaining twenty miles being far advanced towards completion, will, it is expected, be finished and opened by September. The location of the Caraquet Railway is eminently favorable for the earning of steady revenue; its course being through a long settled country whose communities are engaged in important mercantile pursuits, the resources of the district being very large. The amount of mortgage bonds authorised by Act of Parliament is limited to £100,000 and represents a charge of only £1,700 per mile upon a railway costing £4,833 per mile, the ordinary share capital of the company is $950,000 (or £190,000), the whole of which has been allotted in Canada. The mortgage bonds take priority before the share capital, both as to principal and interest, and are further secured by a mortgage under a trust deed of the value of the railway, rolling stock and other assets of the company, besides the uncalled capital, namely, by mortgage of sixty miles of railway, whereof forty miles are in operation, having been completed and equipped at a cost of £4,833 per mile, or equal to £193,320; by twenty miles of railway in course of construction, under contract, for, say, £96,660; by uncalled capital of the company, £44,[illegible] making a total of £334,440, or more than thrice the amount of the entire issue of bonds authorised; thus affording security of the highest class. The amount required out of the revenue to pay the interest upon the whole of the bonds is only £190 per mile annually. A carefully prepared estimate based on the traffic already existing shows that a revenue of at least £200 per mile may be expected. Since the opening of the line now in operation the earnings have been highly satisfactory. Mr. K. F. Burns, M.P., the president and general manager, reports: 'Thus far the receipts from both passenger and freight have exceeded the company's most sanguine expectations.' And, indeed, he adds: 'Since regular daily trains commenced running the carrying capacity of the line has been taxed to the utmost, with every likelihood of continually increasing business. The working expenses and cost of maintenance will be exceptionally low owing to the absence of steep grades, sharp curves and heavy bridges.'"

There, Sir, was the statement on which the issue

took place. Now, what was the result of all this financing? Ostensibly, the subsidies amounted to $404,000, Dominion and Provincial, or $5,950 a mile for sixty-eight miles; the bonds, allowing off 20 per cent. for the reserved interest and for the discount at which they were sold, should net $400,000, or $5,900 a mile; making a total of bonds and subsidies of $804,000, equal to $11,850 per mile; there was an alleged cash result from the paid-up stock, represented at $751,887, being equal to $11,050 per mile; making the pretended cost of $22,900 per mile; or, if you take the bonds at their face value, $23,200 per mile, which was the price set up in this English prospectus. The true value of the work, as I have stated, was probably, including contractor's profit, a good deal under $8,000 a mile, instead of $22,000 or $23,000 a mile, and the facts I have given indicate that, subject to the question of the margin of profit. You will observe that it is stated here that the work was done under governmental supervision, which I do not understand to be correct. It is quite true the Government engineer has to report to the Government that the work is so far constructed as to entitle the subsidy to be paid; but that that is the sense in which this term is used here, it is not fair to suppose. It is unfortunate that the Government of Canada was brought into this prospectus. It is also said that the road is a link of the transcontinental highway, a statement which, of course, unless the port of Shippegan is to be made, in fact, an ocean terminus, cannot be in any sense correct. It is said that the road cost $1,450,000. That is false. It is said that three-quarters of a million of stock was paid up. That is false. The road cost only a little over half a million; and nothing was paid on the stock. Then there are observations made with regard to the eminently favorable character of the location, and of the country through which the line runs, and then you have the report of President and Manager Burns as to the results. There you get the statement that it will require only £100 per mile of earnings to pay the interest on the bonds, which is correct; it would require, in truth, only about $450 per mile, to put a fine point upon it, to pay the interest on the bonds of $30,000 a year. It is stated by Mr. Burns that, according to this careful estimate, a most careful estimate, based upon the actual result of the traffic at that time, a revenue of £200 or $1,000 per mile, or double the amount required to [illegible]erest, may be expected. Net earnings of $1,000 mean, of course, gross earnings of [illegible]s that amount according to the ordinary [illegible] calculation for roads of this description, whi[illegible] that you will net only about one-third of your gross returns, so that the net estimated earning of $68,000 a year, which is alleged in this report to be justified by a careful estimate based upon the traffic existing at the time, would require a gross earning of $204,000 a year. Now, if you turn to the railway statist[illegible] it will be found that in the earlier years, alth[illegible]h this line was in part completed and in part r[illegible]ing, no details were supplied; but details wer[illegible]pplied for the year 1888, and have been supp[illegible]and are in the hands of the Government for [illegible], although we have not got them. The detai[illegible]or the earlier year indicate, I think, two engine[illegible] which quantity, I believe, has been increased by as much as 50 per cent., because I believe there are now three engines, one first class car, two second class and emigrant cars and fifteen platform cars, so that it would not be extremely difficult to tax to the full, or even to over-tax, the resources of a company so scantily equipped. The return of the operations of 1888 shows a total tonnage of 11,195 tons moved, namely:

	Tons
Flour	600
Grain	15
Live stock	25
Logs	5,000
Firewood	1,280
And all other goods	4,275
Total	11,195

The return shows besides 3,500 passengers moved, and a total train mileage of passenger and freight trains of 23,500 miles, and it shows a cost reported to the Government of the enterprise of $1,135,000. The gross return in money from the passenger traffic was $2,432.75 and from freight $9,199.19, making an aggregate gross return of $11,631.91, while the expenses, I believe, were $11,311, or a handsome net profit of $320 on the year's running. There was, however, I admit, a very great and extraordinary development in one branch, that of railway casualties. The losses by collisions, or trains thrown from the track were such as would amply meet the emergencies of a much larger and more important enterprise. In that respect, if in no other respect, the hon. member for Gloucester was equal to the situation, because he produced a number of casualties which might fully satisfy the ambition of a much greater road, and of even a larger railway manager than himself. In that year of 1888, these railway statistics show that there was one passenger killed, and seven employés, or, in all, eight deaths, and there were besides five injured, making in all, thirteen casualties. I am afraid that one of those very substantial bridges must have gone down or some other dreadful accident must have happened to produce that loss of human life in this year, and, perhaps, to produce unhappy results, as to the running expenses of the road, in the following year. I believe, also, this road is closed up frequently, in fact for several months in each year, so that notwithstanding the very active industry of the district, and the great demand existing there for a railway, the inhabitants are obliged to suffer for the want of an open road for some months each year. For this year the Government have not brought down the railway statistics, but the Minister of Railways gave us the other day the general returns of the expenses and earnings. He gave us $18,000 as the receipts and $27,000 as the expenses; and this is the year in which the money was wanted to pay interest on the bonds, for up to this year the interest was provided, I presume, out of the amount realised from the bonds, and put into bank; and the calculations in the prospectus, therefore, have reference to this period. At this time the fund provided for payment of interest is exhausted, and the calculations of the prospectus declare that out of the revenue ample funds will be obtained to meet the interest for the remaining period. How are those calculations verified? In this year, $18,000 are the gross receipts, and $27,000 are the expenses, making a deficit of $9,000. I cannot account for that at all, unless it be that it is utterly impossible to keep the railway open at all on such

a nominal amount of traffic without incurring a larger expenditure than you can charge for, at any reasonable rates, on that small amount of traffic. Or, taking the other alternative, that some serious accident took place involving an additional charge on the earnings of the year. For the hon. gentleman has no longer a capital account to which he can resort, as can the right hon. the First Minister, who, when an accident happens on his road, or he wants to buy some new cars, or build a new bridge, has only to call on us and charge the amount to capital account. But the hon. member, having no capital, except that uncalled capital, which is fructifying in the pockets of the one shareholder, himself, the hon. gentleman, I say, when he cannot pay any demand out of running expenses, has to charge it somewhere, and makes a debit balance. This year the road was to have earned gross $204,000 in order to earn a net $68,000; but instead of that it shows a gross of $18,000 only, and a deficit of $9,000 on the year's work. It is perfectly obvious that the English people who were induced to subscribe to the bonds have been gulled. It is perfectly obvious that this prospectus is false; and one immediate result of it is that an application has been made this Session to the Government to take over the road. As the First Minister has told us, and as the communications which the hon. gentleman for North York (Mr. Mulock) read indicate, negotiations are going on for the assumption by the Government of this valuable asset. All these matters must be seriously considered. They have a direct bearing on, and should affect our consideration of the general result of the Government's policy of subsidising railways. They affect the question of the duty of the Government as to the information they ought themselves to obtain, and to communicate to this House, upon which a decision is to be based by them, in the first instance, and then acted upon by us, as to whether subsidies are to be given or no. They affect the question of the great policy of assumption by the Governmeet of these lines, which the hon. member for Albert (Mr. Weldon) and the hon. member for Westmoreland (Mr. Wood) have raised, the hon. member for Gloucester (Mr. Burns), himself, not being wholly indifferent, and which the right hon. the First Minister said was a subject eminently deserving serious consideration and would receive that consideration. They affect, both here and in the mother country, our own financial and moral standing as a people, as a Government, and as a Parliament. They affect the honor and the independence of this Parliament itself. And we are bound to consider them all, if we would preserve the public consideration for ourselves.

OTTAWA: Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON

GRAND TRUNK BILL AND FOREIGN CONTRACT LABOR BILL.

WEDNESDAY, 19TH MARCH, 1890.

Mr. BLAKE. I think that, after what has been done in other instances, as the hon. gentleman has stated, we should adopt this motion, but I cannot forbear to say that I view with some apprehension the proposal of the hon. gentleman to move the House to extend the time for action by the Standing Orders Committee. I must say, Sir, that during some years I took a very earnest part in endeavoring to enforce, as far as was practicable, consistently with real emergencies, those rules of the House which require the presentation in due time of private Bill legislation. I think that we have now fallen into laxer practices than have prevailed in former years. From my observance of the system in past Sessions, I think it is one which is open to very great possibilities of evil, and when we find private Bill legislation dropping into this House at an advanced period of the Session, it is almost certain that something will slip through for want of being attended to, which, if properly attended to, would be prevented. So far from relaxing these rules, I had rather that we should pass an ordinance which would make them more binding, and that the regulations of the Standing Orders Committee should be more rigorously observed in the future than in the past. I think our attention should be directed to some plan by which we should further enforce upon those who require private Bill legislation, the duty—unless in a case of emergency, and of course our laws are flexible and adequate to meet all real emergencies—of giving the full notice required, and sending in their petitions and presenting their Bills early in the Session. I think a very large improvement would be obtained if we made some arrangement whereby these petitions should be so dealt with that the Bills, by perhaps some alternate process or otherwise, should take their initiation in the other branch of the Legislature. We know that after Parliament meets, of necessity but a very small portion of legislative duty can be discharged by the Senate in the early part of the Session, until we supply it with work. I think a function of the highest public consequence would be performed by that Chamber, if a much larger part of the private Bill legislation, than has ever been initiated there, were, by a course of practice, which the two Houses have it in their power to arrange, begun in that branch of the Legislature. We know that in England a certain class of private Bill legislation is very largely moulded and managed by the House of Lords. I have some reason to believe, not from personal experience, but from what I have heard, that those Bills which are dealt with by the Senate are very carefully criticised, and I do think that it would be of great consequence, if we could devise some methods, not for further relaxation, but for more rigid observance of the general rules ; and also for providing that a large portion of the private Bill legislation should take its initiatory stages in the other branch of the Legislature, in order that it may have that more perfect consideration which we cannot give it here.

Mr. BLAKE. I do not suppose, Sir, that any one could imagine your conduct to have been otherwise than proper and correct, and the misunderstanding was due to the fact that attention was not called to the arrangement on which the proceeding to be taken was intended to be based. The second reading of the Bill, even under the circumstances under which the First Minister proposes it shall be read, may be used in the neighboring Republic as an evidence that we have assented to its principle. I think that it would be an unworthy act for us to pass it through a second reading with any such object, since the First Minister, who leads the great majority in this House, has announced that he does not agree to its principle. He has stated that the second reading has entirely another object. We have, therefore, no idea of using this as an indication of any intention to pass hostile legislation. Whatever the intention may be in our breasts, that is not the intention with which we are asked to go through a second reading. If it were, I should regard it as a very regrettable intention to act on, unless we were fully decided that the principle is a sound one, which the First Minister says he does not affirm. On the contrary, he asks us to agree, in words contrary to the formal effect of the second

reading, that we do not affirm that principle. He has stated that his desire is that the Bill should be referred to a Select Committee, in order that there should be a careful and full report made of the conditions and circumstances of our grievance and difficulty with the neighboring Republic—not the grievance and difficulty which this Bill professedly is designed to remove, namely, that too many people are coming in from the other side, but the grievance and difficulty we labor under by the restriction of the passage from our side to the other of the citizens of our own country. I hold that is not the function of a Select Committee on the Bill. I think, Sir, you will find that all the Select Committee on the Bill can do, if you strike one, is to report the Bill either in its present shape, or with such amendments as they may think should be submitted to the House; and, therefore, the object the right hon. gentleman has in view will not be attained by the appointment of the Select Committee he proposes. If the purpose be to examine this question carefully, to consider its whole bearings—the bearings, namely, of the operation of the law of the United States upon us, and the bearings of the operation of such a law as is proposed by this Bill upon us, and the best remedies for the difficulties—the better plan would be, that the hon. mover of the Bill should propose, or that the hon. First Minister should propose, a motion for the appointment of a Select Committee to consider the whole subject and report upon it. Such a Committee could consider it and give us a full and general report, which a Select Committee on the Bill will not, under its appointment, have power to give, as such Committee will be able to deal only with this Bill, which presents but one side of the case, and its powers will be limited to simply remodelling the clauses according as the Committee think they should be remodelled. I wish to refer briefly to another matter, in respect of which I have been anticipated by my hon. friend the member for South Oxford (Sir Richard Cartwright). I do think that the passage, in its present form, of the legislation on the other side, and the effect which has been suffered to be given to that legislation, without any attempt made to modify it, are very cogent proofs of the importance of a diplomatic agent of Canada being present at Washington. I stated that view as long ago as the year 1880, and I think all that has happened since that time has indicated the importance of our doing what I then said we ought to do, that is, to send there the very best man this country can afford, to bend his mind to the consideration of those matters in which the interests of the one country are affected by the action of the other, in which Canadian interests are affected by what is being done and what is being said in Washington. I thought then, and I think now, that it is important that there should be always a free and responsible Canadian medium for the interchange of opinion with the Washington authorities in regard to Canadian interests. I believe that, if that plan were adopted in regard to a country which, to adopt the language of the hon. member for Northumberland (Mr. Mitchell), is so much governed by newspapers, misunderstandings would not occur, difficulties would be explained, the path would be made easier in many ways in regard to our various relations with the States. This House is now sitting, and it may perhaps have a function to discharge in regard to this matter. My opinion is that the function would be best discharged by the appointment of a Select Committee; but, if you are going to accept the suggestion of the First Minister in regard to this Bill, it will either be necessary to interfere with the precedents and practice of Select Committees on Bills, or, in some extraordinary way, by giving some special authority or instruction to the Committee, to enable them to make a finding in this regard, otherwise you will find, when the report comes back, that it will not be what you expect.

Ottawa:—Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON

SAWDUST IN RIVERS.

TUESDAY, 29TH APRIL, 1890.

Mr. BLAKE. I agree with a good deal of what has been said by the hon. member who has just taken his seat (Mr. Ives). I think some confusion exists as to the matter, because it has been apparently considered that a proceeding which is based on the one statute is to be dependent in part on the provisions of another statute. The truth is, the proposed legislation which has been discussed, and which would relieve the hon. the Minister from the invidious distinction with which he is at present invested by making the rule cast iron, is legislation which, as I understand it, would apply only to one set of difficulties, namely, to the difficulties arising from navigation. But the Fishery Act is another statute, with another set of prohibitions, and it also reserves its own exemption power to the Minister; and, therefore, the proceedings in this case, as I understood them, having been taken only under the Act with respect to navigable rivers, it is beside the question to attempt to discuss whether these proceedings are justifiable under the Fishery Act, or upon the ground, for instance, of injury to the fisheries. I call the attention of the Minister to the fact that so long as it is attempted to justify the enforcement of these prohibitions by reference to the fishing interests the proposed legislation as to navigation will be of no consequence, because the Act, which it is proposed to amend, does not authorise any prohibition whatever in consequence of the fishing interests. It deals solely with the interests of navigation; it is the other statute that deals with the prohibition as to the fishing interests, and that statute must be dealt with in order to alter, if it is thought desirable to alter, its provisions as to exemption. There was a great deal of good sense in what the hon. member who has just taken his seat (Mr. Ives) said in respect to the relative importance of the conflicting interests. I happen to know Mr. Davison, who is an old friend of mine, and early in this Session I was put in possession of the papers in this case, and I expected I would have had an opportunity of dealing with it when the Bill of the Minister of Marine and Fisheries was brought up. Since that time my recollection of the facts has somewhat faded away, and I am not able to speak as clearly as I had hoped to speak, on this unexpected occasion. So far as I can remember, whether the diminution in the quantity of fish was due to the sawdust or no, it seems to me to be ridiculous to compare for an instant the existing condition of the fishing interests on the LaHave and the existing condition of the lumbering interests on that river; for the lumbering interests as regards the mill owners, the employés, and the public are of such importance that the action of the law on the ground of the relatively insignificant fishing interests should not prevail. I agree with the hon. member (Mr. Ives) that, as regards navigable rivers, the interests of navigation are of much higher importance and require much more careful consideration. I read the evidence on this subject also. There was no doubt some evidence that sawdust had accumulated in some parts of the river. There was no doubt evidence that the channel had been to some extent narrowed, I should judge; but I did not find, taking the whole evidence, that the navigation of the River LaHave such as it is, and such as I should judge it is likely to be, is being at this time substantially impeded, for the uses to which it is put, by the condition of affairs which had been produced by the sawdust; nor did I find from the evidence that there had been, of late years at all events, any great impairment of the condition. It is perfectly obvious that the effect of sawdust will depend very much on the character of the stream. As the hon. Minister of Justice has said, if we deal with rapidly running rivers, having a great descent and without sinuosities, no doubt the sawdust will get away. If, however, the river is somewhat sluggish, and particularly when it is a tidal river with deep bays and eddies, there are abundant points on which the sawdust will be deposited, for I cannot agree with the hon. member for Charlotte (Mr. Gillmor), that the sawdust keeps floating all the time; but there may be considerable deposits of sawdust in these bays and deep spots, and yet the average depth of the river may be maintained. There is, of course, no object, for purposes of navigation, in having deep holes in a river. The depth of the channel of a river is its depth at its shallowest point. So if the sawdust simply fills up the holes and leave the navigable channel free, of course no damage is done to navigation. The general impression I drew from the evidence was this, and I state it after the speeches

delivered by the two Ministers, that there was no great public interest imperilled by the continuance at the present time of the state of things which has been continuing for some time, while it would appear that very serious inconvenience would result, even if the destruction of the entire lumbering business would not result, from a severe course being taken in this regard. All I ask now is, that as we have not had an opportunity of fully discussing this question, which we had reason to expect would be given to us by the Government Bill on the paper standing in the name of the Minister of Marine, which, we understand, will not now be proceeded with, there shall be given a very careful reconsideration of the condition of affairs with respect to these rivers on which the hon. the Minister is at present enforcing the prohibition; and that unless it be made upon that reconsideration absolutely plain that such an important interest as the navigation interest is about to be seriously interfered with by the continuation of the system, a stay of these vigorous proceedings should take place in the instance which has given rise to this discussion.

ORDNANCE LANDS.

Mr. BLAKE. I think I know something about the claim. The claim arose out of the stipulation of the original cession, which was partly statutory, of this land along the canal by which it was alleged to be on the condition that there should be no buildings erected on it, and that it should be for the use of the canal only, and there is an allegation that there has been a forfeiture of the allegation by the erection of buildings. I think those buildings were erected by squatters. It would be important to know how much of this is for law costs, and how much for commission on sale of lands, and who is the seller of the lands and what is the rate of commission?

Mr. BLAKE. Is there not a question as to the deposit on the Logan farm, which the auctioneer retained.

Mr. BLAKE. What are we giving commission for if the auctioneer retains the $7,000 or $8,000?

Mr. BLAKE. I think the claim, however, extends to a portion that surrounds the bywash as well as to the other portion.

THE RAILWAY QUESTION.

Mr. BLAKE. My hon. friend from North Norfolk (Mr. Charlton) must remember that the policy of the Government according to a statement made by a very important member of the Government before the last election, so far from parting with these Government railways in the Maritime Provinces, was to increase them by the purchase of the properties of private corporations, in order as Sir Charles Tupper said in a telegram which I read to the House, that they might both be run with greater economy and with greater advantage to the public service. It is true, that policy has not yet been effected; but we have no doubt whatever that although Sir Charles is no longer there, his spirit still prevails, and that within a reasonable time, before the next election, the telegram will again materialise.

Mr. BLAKE. Proposals of this kind have accomplished certain ends on former occasions. There was a former occasion when this subject was brought forward, not on the suggestion of a simple candidate for a county, no matter how important he might be, but on the formal representation of the most important man in the Ministry next to the Prime Minister. It was on the 11th of February, 1887, that Sir Charles Tupper telegraphed to the present hon. member, then the candidate actively canvassing for Albert (Mr. Weldon), as follows:—

"I intend to submit to my colleagues a proposal to consolidate the branch railways with main line, by which greater economy in administration will be effected, and much greater utility to the country secured."

Think of it! The Minister who had been in charge of the Department of Railways for a long time, and who was then, I think, Minister of Finance, and who therefore had a long experience in the two Departments which most specially fitted him to deal with a matter of this kind—his experience in the Department of Railways having given him a knowledge of the requirements of the railways of the country, and his knowledge of the Finance Department having instructed him in regard to the attention to be paid to the finances of the country—that Minister, with all that experience, and with all that influence, had come—it is true at a late period, it is true at a critical period, it is true at a period which perhaps did not fit him for calm consideration of all the fiscal and economical questions which were involved, at a period when his judgment might perhaps, to a certain extent, be obscured by other and political considerations had come—to this conclusion, that the consolidation of the branch railways with the main line of the Intercolonial would at once effect greater economy in the administration of the whole and much greater utility to the country; and he had also come to the conclusion that it was his duty to submit to his colleagues a proposition to accomplish that result. He obtained from the people that measure of power which he desired the Administration to secure—whether by these or similar devices it is not material now to consider—but he came to this Parliament backed by my hon. friends opposite, many of whom, no doubt, received telegrams, the hon. member for Albert (Mr. Weldon) amongst them. I cannot doubt that Sir Charles Tupper submitted that proposal to the Government. I cannot doubt that the member for Albert pressed upon him to press upon them that the proposal should be carried out. I cannot doubt that Sir Charles Tupper did all he could—and who could do more?—to bring about the redemption of the promise which had so successfully redeemed the County of Albert.

Mr. BLAKE. He had not time enough! He left his office and the country, and the hon. member for Albert (Mr. Weldon) tells us that for four years he has been laboring in that field which Sir Charles Tupper deserted.

Mr. BLAKE. Well, for three years. I recommend the hon. member for Albert, who now for the first time brings this matter before Parliament, to continue laboring, with the assurance that it will not be until the time, or about the time shortly preceding the general election, that he may expect to reap a harvest as the result of his labors. I do not suppose that he will be now contented; I hardly expect that the electors of Albert will next time be contented with another telegram, but this time he may possibly hope to get an Order in Council providing for a future consolidation of these railways to be effected if the next elections go right.

OTTAWA:
Printed by BROWN CHAMBERLIN, Printer to the Queen's Most Excellent Majesty.

House of Commons Debates

FOURTH SESSION—SIXTH PARLIAMENT.

SPEECHES OF HON. EDWARD BLAKE, M.P.,

ON THE

SEAMEN'S ACT.

FRIDAY, MAY 2ND, 1890.

Mr. BLAKE. I quite agree with the observations of my hon. friend. A number of years ago, I think in 1882, this class of persons was subjected to extremely stringent legislation at the hands of this Parliament; and the legislation was framed with special reference to a difficulty which existed in the port of Quebec. It was then provided that a stipendiary magistrate might convict without appeal, and without any method being given for reconsideration, in cases in which penalties of from two to five years' imprisonment in penitentiary could be inflicted. Upon that occasion I was unsuccessful in endeavoring to secure a trial by jury to persons who were subjected to so grave a penalty. It was upon the 15th of May, 1882, that the Bill to amend the Seamen's Act of 1873 was moved by the right hon. the First Minister, seconded by Sir Leonard Tilley; and upon the second reading I moved, seconded by the hon. member for Bothwell, to recommit the Bill to the Committee of the Whole House with instructions to amend the same, so as to provide for a trial by jury of any person liable to be sentenced, under the said Bill, to from two to five years' imprisonment in the penitentiary. My motion was defeated upon that occasion, as, I presume, any like effort will be upon this, the ground given for the exceptional rigor of the procedure, which deprives the parties accused of those securities that exist in ordinary cases, being the transitory nature of the occupation of the parties who would be the principal witnesses, and the fact that the offence having generally to be proved by captains and crews of ships, an appeal would mean a defeat of justice. I cannot reconcile to myself the view that the circumstance that there is a difficulty in prosecuting an appeal successfully, should leave the party accused without some protection against the possible injustice of the primary and sole tribunal analogous to that which exists in other cases. It may require some special legislation as to expedition of the trial, some special legislation as to the facility of taking and recording evidence; but I hold that that protection which the subject at large has against injustice inflicted by primary magistrates, should, in some shape or other, be given to the class of subjects treated in this Bill as well as to the others; and I maintain that the simple alleviation which the Minister rightly proposes in this Bill, and which restores to the subject in this case the right to a *certiorari*, is but an imperfect and inadequate alleviation; that while other classes of subjects, convicted before magistrates, of the same class of offences, of the same description and gravity, to punishment of the same kind, have other means of redress, we ought not to limit this particular class to the inadequate, partial, incomplete, and oftentimes wholly abortive remedy of a *certiorari*.

MONDAY, 5th May.

Mr. BLAKE. I wish to say a word with reference to this proposed amendment in renewal of the discussion which took place the other day. As I understand the Act which the present Bill is proposed to amend, it has reference only to the inland waters and does not apply to ocean voyages; at any rate it does apply to the inland waters. The great bulk of vessels engaged on inland voyages are engaged on a regular course, in sailing from point to point, and the extreme voyage is, I think, two or three weeks in length, from Lake Superior downward to the port of Kingston, and return. There is, therefore, with reference to the bulk of the cases, an opportunity of reaching once again a point at which the difficulty arises within a very short time, and if I am rightly informed, the bulk of cases which come under the provisions of this Act, arise in the Welland Canal, about midway in the voyage. I make this statement because it seems to me to be not unimportant to consider whether there is, in any point of view, an absolute necessity for what I must call a denial of justice. I think there is in no case such an absolute necessity as that you should wholly deny justice, but I say that here the inconvenience which is suggested as a cause for the denial of justice, is a minor degree of inconvenience altogether, and

that, by the adoption of the right of appeal with reference to the inland voyage, possibly with some further precautions, possibly with some precautions as to the facilities for taking and recording evidence for use on the appeal, and with some other provisions suitable to the case, we could overcome any of those difficulties and prevent the risk of gross injustice resulting. We have found it necessary to establish appeals from courts composed of judges of great experience, of great dignity, of much learning, who discharge their business in the light of day, with the assistance of trained advocates, and with all the advantages, and also with all the checks and precautions, which the ordinary course of a public court provides. How much more important it is that we should, with respect to magistrates such as those who are called upon to deal with the cases, give some better opportunity than a *certiorari* gives—we all know how very poor and narrow that remedy is—against the injustice which such a magistrate may commit. A case which has been laid before me, and, I think, it is a case which has been laid before the Minister of Justice also, I bring before the notice of the House as the kind of thing which may happen, because it is a kind of thing which has happened under the law, and is not remedied under the law as it will be altered by this Bill. At a certain time the person of whom I am speaking was summoned to appear before the police magistrate at Port Colborne, charged with the offence of persuading, or trying to persuade, the crew of a schooner to leave or quit their work. He appeared, and asked that the case might be adjourned till the next day in order to secure the services of a lawyer; but that was refused, and the magistrate declared that the case must proceed at once. The captain, who swore out the warrant, could give no direct evidence that he had seen the person either on board the vessel or talking to the men. The men were necessarily sent for, and when they were summoned, they were asked whether they were under articles, and they proved that they were not under articles, in which case the Act had really no application whatever. The individual charged then demanded to be acquitted, but the magistrate determined that he must be convicted, and he sentenced him to gaol for one month at hard labor. He said to the magistrate that he would appeal, but the magistrate told him there was no appeal for him. He telegraphed for the assistance of a lawyer, and the lawyer came down the next day. He saw him. The lawyer told him there was no appeal under the law. An effort was made to get a copy of the evidence, but there was great difficulty in procuring it, and a threat had to be made to proceed against the magistrate before even a copy of the evidence could be procured and sent to the Law Clerk at Welland, and then it was made clear that there was no appeal or redress. That is the state of things, I am informed, which has happened under the Act, and that state of things may happen under the Act notwithstanding this amendment. It seems to be a blot upon the administration of justice that such a condition of things should continue, and, so thinking, I propose to vote for the amendment, in the hope that, with certain precautions, it may be effectual.

Sir JOHN THOMPSON. I should like to ask if the hon. member is sure that the Act only applies to inland waters? I was so informed, but that is a mistake.

Mr. BLAKE. The law to which I referred was confined to the waters about Quebec, and it was so stated at the commencement of the statute.

Sir JOHN THOMPSON. It is an Act relating to the shipping of seamen.

Mr. BLAKE. I was told that there was a statute that did so confine it.

Sir JOHN THOMPSON. I, also, was so informed, but I was informed incorrectly.

Mr. BLAKE. There is a statute which contains these provisions.

Sir JOHN THOMPSON. Not that which contains the provisions we are amending. This is an Act in regard to the shipping of seamen, and it refers to sea-going ships as well.

Mr. BLAKE. If that be so, all the observations I made as to the inland voyage would apply to this proposed amendment, and the change might be left to the inland voyage, the outgoing voyage being left as it is.

BILLS OF EXCHANGE AND PROMISSORY NOTES.

Mr. BLAKE. I would not object to a provision that if we limit the time to a very short time after the drawing of the cheque within which to ascertain whether it was a forgery, a notice should be given to the bank.

Mr. BLAKE. I move "that the amendment be further amended by leaving out all the words after "one" down to "payment" and inserting the words, "a month after he has acquired notice of such forgery."

Sir JOHN THOMPSON. Before the question is taken I would like to say that, for my part, I would be quite willing to adopt that amendment. Instead of going to the trouble of taking a vote, I would like to have some expression of opinion from hon. gentlemen on the matter.

Mr. WELDON (St. John). I think that amendment seems to meet the case.

Mr. CHARLTON. I would prefer to have the amendment dropped out altogether, and leave the law as it formerly stood.

General LAURIE. I should prefer to see the clause dropped out altogether.

Mr. TISDALE. So should I.

General LAURIE. The system at present prevailing has worked exceedingly well in the past, especially for those who live at long distances from banks. Our only means of paying accounts has been by sending cheques, and we have had to trust to parties receiving them endorsing the cheque as a receipt. I have very much to regret that any other plan should be adopted.

Mr. BLAKE. I hope the hon. gentleman will see that the proposed amendment is not open to this objection. The amendment is: that if you have acquired notice of the fact that the cheque is forged, you ought, within a month, to give notice to the bank. You are not to hold it in your pocket for five years and eleven months.

Mr. TISDALE. This amendment is sure to lead to a great deal of trouble and confusion as to what notice is. I think the safer way is to leave the law as it stands at present.

Mr. WHITE (Renfrew). My opinion is, that if the drawer of a cheque gets notice of a forged endorsement, he is not likely to keep it in his possession for five years and eleven months. He is more than likely to give the bank notice just as soon as it comes to his knowledge that the cheque is forged. But the law as it has stood heretofore seems to have worked without any considerable friction, and, for my part, I would prefer leaving it as it is, and striking out the Senate amendment altogether.

Mr. BOYLE. I prefer the amendment of the hon. member for West Durham to the proposition of the hon. Minister of Justice, but I prefer the old law to either of them. But I am in this difficulty, that by voting for the amendment of the hon. member for West Durham, I would commit myself to the amendment of the hon. Minister of Justice. Under these circumstances, I feel that the only safe course for me to take will be to vote against the amendment of the hon. member for West Durham and also against the proposition of the hon. Minister of Justice. The law has worked so well that I think no change should be made, unless some improvement on this amendment is proposed.

Mr. BLAKE. The hon. gentleman will observe that by voting for my amendment, which he prefers, he may carry it; and after carrying it, he is quite at liberty to vote against the amendment as amended; whereas, if he votes against my amendment, he may have the worse proposition carried, instead of the better.

Mr. WELDON (St. John). A cheque payable to order is really an innovation. The effect of the amendment will be that the bankers, to protect themselves, will revert to the old system.

Mr. DAVIES (P.E.I.) I do not see how anyone can object to the amendment proposed by the hon. member for West Durham. That a man who has drawn a cheque and receives notice that its endorsement has been forged, should give the bank notice within a month, is not an unreasonable proposition. There can be no possible injustice to any one in such an arrangement.

Mr. CHARLTON. With regard to the assertion of the hon. member for St. John (Mr. Weldon), that cheques are generally made payable to bearer, my experience has been quite the reverse. For my part, I never make a cheque payable to bearer, in order to guard the interests of the person who receives the cheque. The amendment proposed by the hon. member for West Durham is a very great improvement, which I am willing to accept, if afterwards I shall be free to vote to leave the law as it was before. I would ask whether we can do that?

Mr. BLAKE. Certainly. If my amendment were carried, the clause as amended would be before the House, and the hon. gentleman could vote yea or nay on the clause.

Amendment of Mr. Blake agreed to.

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